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counterfeiting any security or tax stamp, or any part thereof --

"Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both."

EFFECTIVE: 11/03/94

| 87-1.4.1 | Securities Excluded From Section 2315

"This section shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of an obligation or other security of the United States or of an obligation, bond, certificate, security, treasury note, bill, promise to pay, or bank note, issued by any foreign government or by a bank or corporation of any foreign country." (Handled by Secret Service as a violation of Title 18, USC, Section 480).

EFFECTIVE: 11/03/94

| 87-1.5 | Section 3294

"No person shall be prosecuted, tried, or punished for a violation of or conspiracy to violate Section 668 unless the indictment is returned or the information is filed within 20 years after the commission of the offense."

EFFECTIVE: 11/03/94

| 87-1.5.1 | Moved to 87-1.7.1 |

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EFFECTIVE: 07/25/96

||87-1.6| Jurisdiction of Other Federal Agencies

The interstate or foreign transportation of falsely made, etc., securities which are obligations of the U. S., foreign governments, or foreign corporations are exempt from the provisions of this statute by an exception in the statute itself. This exception is to avoid a conflict of jurisdiction with the Secret Service, U. S. Treasury Department. U. S. Postal Service money orders, money, and government obligations which are falsely made, etc., are not the subject of a violation of this statute. If information is developed of fraudulent interstate transactions in the sale of securities, the facts should be forwarded to the Securities and Exchange Commission as a possible violation of Title 15, USC, Section 77q.

EFFECTIVE: 11/03/94

||87-1.7| Other Provisions Concerning Sections 2314 and 2315

EFFECTIVE: 11/03/94

||87-1.7.1| Statute Language "Cause to be Transported"

Note: While the language "cause to be transported" does not appear in all paragraphs of Section 2314 and in Section 2315, it is observed that Section 2 of Title 18 covers as principals those persons "causing or procuring."

EFFECTIVE: 11/03/94

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||87-1.8| Section 2318 - Transportation, Sale, or Receipt of
Phonograph Records Bearing Forged or Counterfeit Labels
|(See MIOG, Part I, 87-4.2.1.)|

"Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 11/03/94

||87-1.9| Conspiracy to Violate Sections 2314, 2315, or 2318

Conspiracies to violate Title 18, USC, Sections 2314, 2315, and 2318, must be prosecuted under the general conspiracy section (Title 18, USC, Section 371).

EFFECTIVE: 11/03/94

87-2 ELEMENTS OF PROOF

EFFECTIVE: 01/31/78

87-2.1 Transportation Elements

EFFECTIVE: 01/31/78

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87-2.1.1 Stolen Property Transportation

- (1) Property is stolen, converted, or taken by fraud.
- (2) Such property, valued at \$5,000 or more, is transported in interstate or foreign commerce.

(3) The transporter must have knowledge such property had been stolen, converted, or taken by fraud. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property had been stolen, converted, or taken by fraud, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

(4) It is not necessary for the actual thief or embezzler to perform the transportation. It is only necessary that the person transporting the property knew it to be stolen or taken in any of the ways specifically prohibited.

(5) Where several transportations of less than \$5,000 in value are used to establish the jurisdictional limit, the Department has stated sporadic transactions are not to be grouped, but only a series of transactions closely associated or a continuing course of conduct should be considered.

EFFECTIVE: 10/23/95

87-2.1.2 Transporting Persons

- (1) Scheme is to obtain money or property by false or fraudulent pretenses.
- (2) Such property is valued at \$5,000 or more.
- (3) Persons are transported, caused to be transported, or induced to travel in or be transported interstate as a result of false representations.
- (4) The travel is in execution or concealment of the scheme.

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EFFECTIVE: 01/31/78

87-2.1.3 Transporting Counterfeit Securities, Tax Stamps, or Sound
Recording Labels

(1) Falsely made, forged, altered, or counterfeited securities or tax stamps, or traveler's checks with forged countersignature, or forged or counterfeited labels on sound recordings are transported in interstate or foreign commerce.

(2) With unlawful or fraudulent intent

(3) The person transporting such spurious securities, tax stamps, or labels on sound recordings knew the same to have been falsely made, forged, altered, or counterfeited. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the spurious securities, tax stamps, or labels on sound recordings had been falsely made, forged, altered, or counterfeited, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

EFFECTIVE: 10/23/95

87-2.1.4 Transporting Tools or Paraphernalia Used In Counterfeiting
Securities or Tax Stamps

(1) That any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security, tax stamp, or part thereof is transported in interstate or foreign commerce.

(2) The transporter must have an unlawful or fraudulent intent.

EFFECTIVE: 01/31/78

87-2.2 Receiving Elements

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EFFECTIVE: 07/28/87

87-2.2.1 Receiving Stolen Property

- (1) Property is stolen, unlawfully converted, or taken.
- (2) The property so taken in the amount of \$5,000 or more is transported in interstate or foreign commerce.
- (3) The person receiving, possessing, concealing, storing, bartering, selling, or disposing of the property in the amount of \$5,000 or more, knew it to have been stolen, unlawfully converted, or taken. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such property had been stolen, unlawfully converted, or taken, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).
- (4) The person receiving, etc., same did so after the property had crossed a state or United States boundary.

EFFECTIVE: 10/23/95

87-2.2.2 Receiving Counterfeit Securities, Tax Stamps, or Sound Recording Labels

- (1) The falsely made, forged, altered, or counterfeited items crossed a state or United States boundary.
- (2) The person receiving, etc., same did so after the items had crossed a state or United States boundary.
- (3) The receiver knew items to be falsely made, etc. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such items were falsely made, etc., after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

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EFFECTIVE: 10/23/95

87-2.2.3 Receiving Tools or Paraphernalia Used in Counterfeiting
Securities or Tax Stamps

(1) The tools, etc., used or intended to be used in making falsely made, etc., items were moving as, a part of, or constituted interstate or foreign commerce.

(2) The person receiving same did so while they were so moving.

(3) The receiver, etc., knew the tools, etc., were fitted to be used or had been used in falsely making, etc., any security, tax stamp, or any part thereof.

EFFECTIVE: 07/28/87

87-2.3 Pledging Elements

EFFECTIVE: 07/28/87

87-2.3.1 Pledging Stolen Property

(1) Property valued at \$500 or more is stolen, unlawfully converted, or taken.

(2) Such property has crossed a state or United States boundary.

(3) It is pledged or accepted as a security for a loan by one knowing it to have been stolen, unlawfully converted, etc. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such property had been stolen, unlawfully converted, etc., after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

(4) The pledging or acceptance of such property as security for a loan was done after it had crossed a state or United

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States boundary.

EFFECTIVE: 10/23/95

87-2.3.2 Pledging Counterfeited Securities or Tax Stamps

(1) Falsely made, forged, altered, or counterfeited items are transported across a state or United States boundary.

(2) The person pledging or accepting as security for a loan such falsely made, etc., items knew them to be falsely made, etc. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such items were falsely made, etc., after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

(3) The pledging or acceptance of such items is done after they have crossed a state or United States boundary.

EFFECTIVE: 10/23/95

87-3 POLICY

EFFECTIVE: 07/28/87

87-3.1 Stolen Property Cases (Includes Property Taken By Fraud or Converted)

EFFECTIVE: 07/28/87

87-3.1.1 Valuation of Stolen Property

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EFFECTIVE: 07/28/87

87-3.1.2 Major Theft Cases

(1) A major theft case is one in which the value of the stolen property exceeds \$50,000.

Transportation of goods, wares, merchandise, securities or money - It is important to determine early in the investigation the value of the property taken. In regard to tangible property, such as clothing, jewelry, automobiles, rare paintings, manufactured articles, etc., the actual value is sought. In the case of articles having no ready market value, such as antiques, the owner's testimony of what he/she paid for the stolen articles, together with an expert appraiser's evaluation, would be very strong evidence of their value. In the case of such items as household goods, their value for jurisdictional purposes is not what they would bring at a secondhand sale but what they are worth to their owner; i.e., original cost less depreciation. In the case of securities, the statute provides the value is the face, par, or market value, whichever is the highest. In the case of merchandise which has not reached the consumer, the courts have held the retail value of such goods is its value for jurisdictional purposes.

(2) When a major theft occurs, immediately institute active investigation

(a) Mere liaison contact with local authorities is not sufficient.

(b) Develop details of the theft, any suspects, and description of stolen property.

(c) Assign sufficient manpower to run out all immediate leads in both office of origin and auxiliary offices expeditiously.

(3) Teletypes in major theft cases

(a) Send to FBIHQ and logical field offices.

(b) Include details of theft, descriptions of stolen property and suspects, results of crime scene search; investigation being taken by your office (and local authorities, if applicable);

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identifying data concerning victim for Bureau indices search, and results of your indices search regarding victim; and leads for auxiliary offices.

(c) Submit initial teletype summary including contemplated investigation as soon as circumstances of theft are ascertained. Within one week after the initial teletype submit a cover airtel with LHM summary to FBIHQ and your surrounding offices including but not limited to, complete description of stolen property and investigation conducted, unless instructed to the contrary by FBIHQ. This LHM summary should be suitable for dissemination and should not include informant information or describe sensitive investigative techniques.

EFFECTIVE: 07/28/87

87-3.1.3 Other Stolen Property Cases (Under \$50,000 in Value)

(1) In any case where circumstances indicate stolen property (valued over \$5,000) may travel interstate or where organized crime figures are involved, prepare appropriate communication to interested offices.

(2) Promptly obtain description of stolen property and its value.

(3) Do not institute investigation unless it is reasonable that stolen property will travel in interstate commerce.

(4) In any case where public interest and publicity may be great, advise FBIHQ expeditiously by teletype of details.

EFFECTIVE: 11/18/83

87-3.2 Fraudulent Check Cases

EFFECTIVE: 11/18/83

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87-3.2.1 Quality Case Concept

(1) [REDACTED] ba

(2) [REDACTED]

EFFECTIVE: 11/18/83

87-3.2.2 Department of Justice Prosecutive Policy

(1) The Department advises that Section 2314 is not applicable to bad check cases where subject uses true name or an alias by which subject is commonly known.

(2) The Department takes view that local authorities have primary responsibility for prosecuting bad check cases, even when such cases clearly fall within the technical scope of the statute.

(3) Generally, prosecution limited to following circumstances:

(a) The state prevented from successful prosecution because the defendant, evidence, or witnesses are beyond the state's borders.

(b) The subject passed such checks in numerous jurisdictions.

(c) Subject's offenses either do not constitute violations under the applicable state's statutes or are inadequately punishable by such state laws in light of the frequency and scope of the defendant's activities.

(d) The bad check charges are to be brought in conjunction with other Federal charges; e.g., impersonation of a Federal official.

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EFFECTIVE: 03/23/92

87-3.3 Conspiracy to Violate ITSP Statute

The Department has advised conspiracies to violate the ITSP statute are violative of Federal laws even where the theft of property has not actually occurred. When information is received indicating a conspiracy to commit a theft or robbery of \$5,000 or more and transport the proceeds in interstate commerce, immediately discuss facts with USA for determination as to whether investigation should be initiated. In each such instance following discussion with USA, advise FBIHQ of full facts.

EFFECTIVE: 03/23/92

87-3.4 Heavy Equipment Cases

(1) For investigative purposes, heavy equipment will include truck tractors, trailers, off-highway vehicles, construction equipment, and farm equipment. Investigative policies and procedures concerning these thefts will be similar to those pertaining to Interstate Transportation of Stolen Motor Vehicles. (See Part I, Sections 26-2 and 26-4 of this manual.)

(2) One of the significant differences between ITSMV and heavy equipment investigations is that certificates of title are not required for off-highway vehicles, construction equipment, or farm equipment. Ownership can normally be established by means of a trace through the manufacturer.

EFFECTIVE: 03/23/92

87-4 INVESTIGATIVE PROCEDURES

EFFECTIVE: 03/23/92

87-4.1 Stolen Property Cases

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EFFECTIVE: 03/23/92

87-4.1.1 Investigative Steps

(1) Ensure that appropriate crime scene search has been conducted for latent fingerprints and other evidence, and that neighborhood investigation is completed.

(2) |Deleted|

EFFECTIVE: 03/23/92

87-4.1.2 In Major Cases

If a major theft, institute investigation under policy requirements for such cases (see 87-3.1.2). Notify FBIHQ by telephone or teletype of any case in which public interest will be great and press inquiries may be received at FBIHQ.

EFFECTIVE: 03/23/92

87-4.2 Transportation of Falsely Made, Forged, Altered, or Counterfeited Securities, Tax Stamps, or Labels on Sound Recordings

EFFECTIVE: 10/26/87

87-4.2.1 Establish That Security Covered By the Statute

The Agent should first determine if the item in question is covered by the statutes. Section 2311 specifically defines numerous documents as securities. Valid or blank automobile certificates of title, bills of sale, and whiskey warehouse receipts are samples of securities which may be altered, forged, or counterfeited in cases coming to the Bureau's attention.

(For additional information, see Part I, Section 26-1, of this manual.) The Agent should obtain the item transported or as accurate a

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description of same as possible. The Agent must remember that it is not necessary to establish such falsely made, etc., items have been previously stolen or embezzled or that they had any value. Section 2318 dealing with labels on sound recordings applies to all presently known methods of recording sound waves according to the Department of Justice. The Department has also advised that it is immaterial whether the bogus label is attached to a genuine recording.

EFFECTIVE: 10/26/87

87-4.2.2 Odometer Turn-Back Cases

Altered or reset odometers on motor vehicles are made unlawful by Title 15, USC, Sections 1981-1991 (Odometer Requirements), which prior to the passing of Public Law 94-364 (Motor Vehicle Information and Cost Savings Act Amendments of 1976) on July 14, 1976, carried no criminal penalties. The purpose of this statute is to prohibit tampering with odometers on motor vehicles and to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles having altered or reset odometers. Title 15, USC, Sections 1981-1991, is directed at an area of crime involving consumer fraud affecting purchasers of previously owned automobiles.

EFFECTIVE: 10/26/87

87-4.2.3 Statutes

Title 15, USC, Sections 1983-1988; Title 18, USC, Sections 2314 and 1343.

EFFECTIVE: 10/26/87

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87-4.2.4 Title 15, USC

(1) Section 1983. Unlawful devices causing odometer to register mileage other than true mileage driven. No person shall advertise for sale, sell, use, or install or cause to be installed, any device which causes an odometer to register any mileage other than the true mileage driven. For purposes of this section, the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

(2) Section 1984. Unlawful change of mileage indicated on odometer. No person shall disconnect, reset, or alter, or cause to be disconnected, reset, or altered, the odometer of any motor vehicle with intent to change the number of miles indicated thereon.

(3) Section 1985. Unlawful operation of motor vehicle with knowledge of disconnected or nonfunctional odometer prohibited. No person shall, with intent to defraud, operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.

(4) Section 1986. Conspiracy to violate odometer requirements.

(5) Section 1987. Lawful service, repair, or replacement of odometer; adjustment of mileage and notice of adjustment; failure to adjust mileage or affix notice of adjustment and removal or alteration of notice with fraudulent intent prohibited.

"Nothing in this subchapter shall prevent the service, repair, or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair, or replacement. Where the odometer is incapable of registering the same mileage as before such service, repair, or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any removal or alteration of such notice so affixed shall be unlawful."

EFFECTIVE: 10/26/87

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87-4.2.5 Title 18, USC, Sections 2314 and 1343

(1) Section 2314. Transportation of Stolen Goods, Securities, Moneys, Fraudulent State Tax Stamps, or Articles Used in Counterfeiting.

(2) Section 1343. Fraud by Wire. ITSP and FBW Statutes have been used successfully in widespread odometer turn-back operations. The interstate transportation of falsely made securities is a violation of Title 18, USC, Section 2314, when the certificate of title of an automobile, a security, has the automobile mileage falsely reported on it and the security is transported interstate. Title 18, USC, Section 2314, also prohibits anyone from knowingly transporting in interstate commerce money, in the amount of \$5,000 or more, that has been taken by fraud. The value of certain used cars may exceed \$5,000 and further the combined value of cars with odometer turn-backs sold interstate by an automobile dealer could easily exceed \$5,000 and that such a dealer could be involved in a conspiracy to violate Section 2314. Violations of the FBW and the Mail Fraud Statutes may exist when purchase arrangements for cars with odometer turn-backs are made by interstate wire communications or when a dealer advertises such cars for sale over radio or television, or when the mails are used to transmit certificates of title bearing false information.

EFFECTIVE: 07/18/86

87-4.2.6 Definitions

(1) The term "dealer" means any person who has sold five or more motor vehicles in the past twelve months to purchasers who in good faith purchase such vehicles for purposes other than resale.

(2) The term "distributor" means any person who has sold five or more vehicles in the past twelve months for resale.

EFFECTIVE: 07/18/86

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87-4.2.7 Policy and Investigative Procedure

(1) If it is determined that the case does not involve widespread ring type activity in odometer tampering, then care should be exercised in expending investigative manpower.

(2) Close liaison should be maintained with the USA with regard to these investigations.

(3) Upon receipt of allegation that a certain car dealer or dealers is/are involved in odometer turn-backs certain records may be essential in corroborating the allegation.

(a) The State Motor Vehicle Administration may be very beneficial in advising investigators as to the type of records required by the State that would aid in tracing ownerships and verifying the mileage at the time the vehicle was sold and at the time it was subsequently resold.

(b) Consideration should also be given to subpoenaing sales records maintained by the target used car dealer(s).

(4) Interviews of previous and present owners will aid in verifying the documented mileage regarding a particular vehicle.

EFFECTIVE: 07/23/90

87-4.2.8 Title 15, USC, Section 1990(c)

Title 15, USC, Section 1990(c) sets forth the criminal penalties (misdemeanors) for violations of Title 15, USC, Sections 1981-1991 and reads as follows:

(1) Any person who knowingly and willfully commits any act or causes to be done any act that violates any provision of this subchapter knowingly and willfully omits to do any act or causes to be omitted any act that is required by any such provision shall be fined not more than \$50,000 or imprisoned not more than three years, or both.

(2) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any section of this title shall be subject to penalties

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under this section without regard to any penalties to which that corporation may be subject under subsection (a).

EFFECTIVE: 07/23/90

87-4.2.9 Investigative Classification

The investigative classification is 87 and the alpha subdivision will be either "B" or "C," depending upon the total amount of money involved.

EFFECTIVE: 07/23/90

87-4.3 Implements Used in the Manufacture of Falsely Made, etc., Securities or Tax Stamps

The Agent in this violation must be alert to establishing that the transporter knew that the implements had been used or were fitted to be used for this purpose and the transportation was coupled with a fraudulent intent.

EFFECTIVE: 07/28/87

87-4.4 Receiving Violations

(1) Under Section 2314 and part of Section 2315 dealing with tools, etc., used in counterfeiting securities or tax stamps, first establish that the items covered have actually moved from one state or the District of Columbia to another state or foreign jurisdiction or vice versa.

Under Section 2315 (with the exception of that portion relating to tools, etc., used in counterfeiting securities or tax stamps), once stolen or fraudulently obtained property crosses a state line or United States boundary, federal jurisdiction attaches to such property and remains until such property loses its stolen or fraudulently obtained character.

(2) The receiver must be shown to have knowledge that such property has been stolen, unlawfully converted, or taken. It is

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not necessary to show that the receiver had knowledge of the previous interstate or foreign transportation. Also it is necessary to prove that the receiver obtained at least \$5,000 worth of the stolen, etc., property.

(3) With regard to establishing guilty knowledge on the part of the receiver, etc., attention is directed to the Theft From Interstate Shipment section of this manual which discusses the circumstantial evidence to be sought (Part I, Section 15-3.2). To violate the receiving section relating to falsely made, etc., securities or tax stamps, the knowledge to be shown is that the items were falsely made, etc., or that the tools, etc., had been used or were to be used in making falsely made, etc., items. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such items were stolen, falsely made, etc., after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

EFFECTIVE: 10/23/95

87-4.5 Pledging Violations

The Agent must prove that the property pledged has an actual value of at least \$500 and the amount it is pledged for is not the basis of jurisdiction. The pledgor and pledgee are both guilty of a violation if the property is valued at \$500 or more and has actually moved interstate if they had knowledge that it had been stolen or embezzled.

EFFECTIVE: 07/28/87

87-4.6 Check Cases

Check cases should be scrutinized with particular care at inception to implement the quality case concept and to reduce the volume of submissions to Laboratory; submissions should be limited to only relevant items in matters with a potential for Federal prosecution.

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EFFECTIVE: 07/28/87

87-4.6.1 Ascertain the Facts Surrounding the Passing of the Check

Ordinarily, the following factors should be considered in this regard:

(1) Specifically determine whether the check was written or endorsed in the presence of the person cashing it. If this is not determined, a subsequent conclusion by the FBI Laboratory that the check was written by a known individual does not prove that the writer negotiated it. In many instances, persons other than the writers of fraudulent checks negotiate them. This is particularly true in ring cases.

(2) Determine the date and hour the check was negotiated. Reliance should not be placed upon the date of the check because many checks are negotiated on other dates. In the elimination of suspects, it may be essential to know the exact time that the check was negotiated.

(3) Any credentials used by the passer purportedly establishing his/her identity should be accurately described.

(4) Ascertain the names of all witnesses who saw or talked to the individual passing the fraudulent check.

(5) Secure the modus operandi used by the check passer, along with the subject of his/her conversation. The method of transportation being used by the passer may prove of value in locating him/her.

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87-4.6.2 Contact Local Police

After complete information has been obtained from the individual reporting a bad check to the field office, a reasonable inquiry should be made with the check squad of the local police department or some other agency cognizant with bad checks passed in the community to determine if the passer of the check involved may be readily known locally.

EFFECTIVE: 07/28/87

87-4.6.3 Determine If FBI Investigation Warranted

If it is determined that FBI investigation should be undertaken, the original bad check passed should be tactfully obtained. Its return may be promised. If time is of the essence, the FBI Laboratory should be so informed and the return of the check will be expedited. If it is not possible to secure the original check, it will materially assist the FBI Laboratory in its examination if a photographic copy rather than a photostat of the check is forwarded. In photographing the check, a ruler or other measurement is to be included in the photograph so that the exact size of the original document can be ascertained. Both the negative and a positive print of the photograph should be forwarded.

EFFECTIVE: 07/28/87

87-4.6.4 Handling of Check Evidence

The original check or a copy should be forwarded to the FBI Laboratory using Form FD-196 incorporating the following information:

- (1) Complete and accurate descriptions of checks
- (2) The circumstances surrounding the passing of the check, i.e., the modus operandi used, should be set forth briefly.
- (3) As complete a description as possible of the check passer should be included. This is particularly important in assisting the Criminal Justice Information Services Division in eliminating fingerprint cards of persons having the same name as that

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used by the check passer. In all unknown subject multiple check cases, the FBI Laboratory examines the handwriting on fingerprint cards containing names identical with that on the check. This comparison is an automatic procedure which is followed at FBIHQ without a specific request being made by the field office.

(4) Any miscellaneous information which is available should be included on the FD-196. For example, if the signature on the check being transmitted is known to be a simulated forgery, genuine signatures of the individual whose name was forged should be submitted.

(5) A specific request should be made if any examination is desired in addition to search in the National Fraudulent Check File and comparison with signatures on fingerprint cards.

(6) The check itself should be enclosed in a cellophane envelope if a latent fingerprint examination is requested.

(7) Normally the office submitting the first check to the FBI Laboratory is the office of origin. Lacking information to the contrary, the office transmitting the check should consider itself office of origin until advice is received that other checks have preceded its submission to the FBI Laboratory.

(8) The date and city where the check is cashed are to be set forth.

(9) Disposition of specimens is to be set out.

(10) A copy of the FD-196 transmitting the fraudulent check to the FBI Laboratory should be designated for the field office in whose territory the bank upon which the check is drawn is located. That field office should be requested to contact the drawee bank to determine if similar checks have been passed upon that bank. This is done since experience has shown that a check passer will issue a series of checks upon one bank and information concerning those checks can be received more expeditiously from the bank. It follows that the detailed information which is desired on the FD-196 transmitting fraudulent checks to the FBI Laboratory is unnecessary in cases in which the identity of the check passer is known and the check is submitted only for comparison with other checks in the same case.

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EFFECTIVE: 04/08/96

87-4.6.5 Discontinuing Investigation In Check Cases

Assuming that a report is received from the FBI Laboratory which indicates that the check submitted was not the work of a known check passer and the drawee bank advises that no similar checks have been passed on that bank, and in the absence of any other information indicating the contrary, it may be concluded that an isolated bad check is involved and that the case is not one which should be exhaustively investigated under the Bureau's policy as set out above. Should information be received at a later date indicating that the passer of this check is again active in passing additional checks, the case may be reopened.

EFFECTIVE: 01/31/78

87-4.6.6 Action Taken When Forgery or Counterfeit Determined

When FBI Laboratory report indicates check is forged or counterfeit, and/or facts indicate subject is an active violator, the following procedure must be followed:

(1) If the field office covering the drawee bank advises that the check submitted is forged or counterfeited or one of a series of bad checks, a stop should be placed immediately with that bank. The original victims of other checks passed should be ascertained. The office of origin should advise FBIHQ to expedite the Laboratory report inasmuch as this is an indication the subject is an aggravated check passer and the FBI Laboratory may tie his checks into a major case. The facts may or may not be presented to the USA at this time depending upon the urgency of the case. Presentment, generally, is more desirable after the receipt of the Laboratory report.

(2) If the Laboratory report identifies the passer of the check submitted with the subject of another case, pertinent information concerning the previous activities of the check passer will be furnished. The field office submitting the check on the basis of the Laboratory report will be in a position to conduct an intelligent investigation concerning the activities of the check passer in that field office territory and submit the appropriate communication to the office of origin which has correlated the

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investigation of the activities of this check passer prior to that time.

EFFECTIVE: 01/31/78

87-4.6.7 Office of Origin In Check Cases - Designation and Responsibilities

(1) FBIHQ desires that there be only one office of origin in a case involving the passing of bad checks. Ordinarily, the first office submitting a check will remain office of origin and field offices subsequently submitting checks passed by the same subject will be advised in the Laboratory reports as to the original office of origin in an effort to avoid confusion in this regard. Despite the exercise of precaution in this matter, it is apparent when a check passer moves rapidly from one field office territory to another that checks from several localities may be received by the FBI Laboratory at approximately the same time. On many occasions, a case cannot be identified with another pending case until after several communications have been written in various offices. On these occasions, FBIHQ will designate the proper office of origin either on its own volition or upon the receipt of a letter from a field office.

(2) It is necessary for the office of origin to assume responsibility for close supervision of fraudulent check cases. Investigative leads set out for auxiliary offices should be carefully monitored in order that unnecessary investigation may be avoided and valuable investigative leads given immediate attention. It should be borne in mind that if there are two or three processes outstanding for a check passer, the purpose of the remaining investigation is to apprehend him/her rather than collect evidence for additional prosecutions. When a major check passer is apprehended and makes a confession admitting numerous additional violations previously unknown, the undeveloped leads should be set out to fill any necessary gaps in the pending prosecution only. Investigation into the circumstances surrounding the passing of new checks should not be made unless prosecution is authorized in the territory where the checks were passed. After apprehension, the office of origin should make certain it sets out undeveloped leads for all offices where checks have been passed to inform the local police departments of the identity of the check passer in order that the records of such departments may be cleared. This is to be done since these police departments may desire to institute prosecution, as experience has shown that a check passer is seldom prosecuted in more than two or

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three Federal districts regardless of the number of violations involved. The full background of a major check passer should be ascertained when he/she is apprehended. Current photographs and numerous known handwriting specimens should be secured. This action should be taken because experience has revealed a major check passer is a professional and upon his/her release from the penitentiary will probably reenter the field of check passing and be the subject of another investigation.

EFFECTIVE: 04/22/83

87-4.6.8 Presentation to U.S. Attorney's Office

(1) The office of origin should pay particular attention to setting out undeveloped leads for presenting facts to USAs at appropriate times. In this regard, when the sole purpose is to clear the record and additional prosecution is not expected, the facts may be presented in the territory covering the bank on which the checks are drawn rather than in the territory where they were negotiated. This will, in many instances, clear a number of violations with one presentment to the USA. This method has the additional advantage of presenting a large number of individual violations to one USA with more likelihood of prosecution.

(2) It is also pointed out that in addition to causing a check to be transported in interstate commerce by negotiating it the subject may be prosecuted if he/she physically transports a check meeting the requirements of the statute.

(3) It should not be overlooked that Title 18, USC, Section 2314, also prohibits the interstate transportation of paraphernalia used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamp or part thereof. Agents should be alert to locate any such paraphernalia in check cases. The USA may desire to make the transportation of such paraphernalia a separate count in the indictment.

EFFECTIVE: 04/22/83

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87-4.6.9 Investigation Concerning Printers of Counterfeit Checks
and Securities

Too little effort has been directed toward ascertaining the identities of the printers of counterfeited checks. If it can be proved that a printer knew the checks he/she prepared were counterfeit and would be negotiated by the subject, it is possible to prosecute him/her as an aider and abettor in the territory in which the subject is prosecuted as a principal. The success of the investigation will depend upon the acceptance of the office of origin of its responsibility to supervise the widespread activities of auxiliary offices and render frequent advice to them because the auxiliary offices are generally unaware of the complete picture of a check case. From a practical standpoint, detailed investigation in the nature of a collection of evidence should be minimized in the later stages of a check case unless prosecution is expected in the territory where the checks are passed.

EFFECTIVE: 04/22/83

87-4.6.10 Deleted

EFFECTIVE: 04/22/83

87-4.6.11 Traveler's Check Cases

(1) Section 2314 specifically provides that the transportation in interstate commerce of a traveler's check, validly issued for value, and upon which the purchaser's countersignature has been forged, is a violation of that statute.

(2) The Department has held that a prosecutable offense under Title 18, USC, Section 2314, does exist when blank stolen traveler's checks are transported interstate and the "purchaser's signature" blank is filled in without authority and with requisite intent by the thief or by one chargeable with knowledge that the check is stolen or is not bona fide. The traveler's check would be considered as falsely made (Stinson v. U.S., C.A. 5, 1963, 316 F. (2d) 554) within the meaning of the statute in the same sense that one falsely makes and forges when one alters or fills in blanks of a genuine instrument without authority or contrary to authority given.

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EFFECTIVE: 03/23/92

87-4.7 Deleted

EFFECTIVE: 03/23/92

87-4.7.1 Food Stamp Program Cases

The Department, in Memorandum #656 dated 12/11/69 to all U.S. Attorneys captioned "Food Stamp Program," discusses the problem being faced by the Department of Agriculture in the increasing thefts of food stamps. The Department recognizes that Title VII, USC, Section 2023, establishes in the Department of Agriculture the investigative responsibility for the illegal possession of these stamps (no requirement of interstate transportation). The Department adds, "However, in the event interstate transportation involving \$5,000 or more in stamps obtained by theft or fraud is indicated, the assistance of the FBI can be sought under Title 18, USC, Section 2314 (ITSP)." No investigation is to be instituted into thefts of these stamps without prior Bureau authority. If you are requested to institute investigation of the theft of food stamps, you should immediately advise the Bureau, by appropriate communication, of all details. If the stamps are in the possession of the U.S. Government at the time of theft, consider as a Theft of Government Property (TGP) violation.

EFFECTIVE: 03/23/92

| 87-4.8 | Deleted |

EFFECTIVE: 03/23/92

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87-4.8.1 Fraud Investigations Under the ITSP Statute

(1) Used where loss exceeds \$5,000 in any one incident and no interstate wire communication (telephone call, telex message, or telegram) is used in perpetration of the fraud.

(2) Facts concerning cases involving losses of less than \$5,000, and no use of interstate wire communications may be furnished to FBIHQ to increase the data base maintained in Bureau files concerning these criminals and their schemes.

(3) To establish a violation of Section 2314 involving the transportation of \$5,000 or more of the loss, it is necessary to prove that one or more of the subjects actually transported \$5,000 or more in interstate commerce. Efforts should be made to identify the con artists, ascertain their itinerary after the swindle, and conduct whatever investigation possible to locate the money in another state or evidence that it was transported.

(4) A violation may be established of Section 2314 even though no actual loss occurred, if the projected swindle was to amount to \$5,000 or more and the proposed victim was caused to travel interstate either in a build-up to the swindle or to obtain funds. If the swindle amounting to \$5,000 or more actually takes place, and the victim is caused to travel interstate as part of the process, a violation has occurred even though the funds are never carried out of state.

(5) For definitive information concerning Fraud By Wire violations (FBW), see Part I, Section 196 of this manual.

EFFECTIVE: 07/18/86

87-4.8.2 Other Avenues In Fraud Investigations

(1) Particular circumstances in a case may make prosecutions under the Conspiracy and/or Racketeer Influenced and Corrupt Organization (RICO) Statutes feasible, and should not be overlooked.

(2) The Mail Fraud (MF) Statute (Title 18, USC, Section 1341), under the jurisdiction of the U.S. Postal Service, is an excellent tool with which to attack frauds.

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(a) A fraud coming to your attention, and lacking any FBI jurisdiction, should be immediately reported to a U.S. Postal Inspector, and must not be continued under investigation.

(b) The character of Mail Fraud (MF) may be added to the title where it becomes another statute under which the subject(s) may be prosecuted in conjunction with other charges brought that fall within FBI jurisdiction.

(3) Sources of information in these type investigations include offices of state attorneys general, state or local consumer protection offices, U.S. Postal Inspection Service, Securities and Exchange Commission, Better Business Bureau, chambers of commerce, local district attorneys' offices, among others.

EFFECTIVE: 07/18/86

87-4.8.3

(1)

6a/67E

(2) FBIHQ will search for identification in this file any handwritten, typewritten, or printed specimens obtained during an active confidence scheme investigation and submitted to FBIHQ, Attention: FBI Laboratory, with appropriate request.

EFFECTIVE: 07/23/90

87-4.8.4 Deleted

EFFECTIVE: 07/23/90

87-4.9 Top Thief Target (TTT)

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EFFECTIVE: 07/23/90

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87-4.9.1 Purpose of the TTT

The goal of TTT is to target top thieves, fences, and organized criminal gangs who are involved in stealing and redistributing property valued at tens of millions of dollars. The objective of TTT activity is to identify top thieves, aggressively collect evidence of their violations of Federal statute and stop their activity through prompt arrest and prosecution.

EFFECTIVE: 07/23/90

87-4.9.2 [REDACTED]

(1) [REDACTED]

(2) [REDACTED]

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EFFECTIVE: 07/23/90

87-4.9.3 Investigative Procedure

(1) Based on facts or circumstances which indicate that the target may be engaged in or is about to be engaged in criminal activity or the violation of a Federal law, a new 87G case should be opened and assigned to a Special Agent working investigations within the ITS.

(2) Identify and obtain background information concerning these targets such as photographs, description, criminal record, modus operandi, hangouts, associates, and travel patterns of burglars, armed robbers, and fences, who engage in activities of a magnitude, that indicates they are major violators or potential violators of Federal law such as the ITSMV, ITSP, or TFIS statutes.

(3) Assign to [redacted] investigative activity Agent(s) whose experience gives him/her a thorough working knowledge of the psychology of burglars, armed robbers, and fences and who is capable of applying unusual or creative investigative techniques.

(4) All personnel involved should be fully aware of the provisions of the ITSP - Conspiracy, Hobbs Act and Racketeer Influenced and Corrupt Organizations (RICO) statutes which are potentially applicable to the objectives of this program. Consideration should also be given to the use of Title III coverage within the provisions of the Omnibus Crime Control and Safe Streets Act of 1968.

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EFFECTIVE: 07/23/90

87-5 MISCELLANEOUS

EFFECTIVE: 07/23/90

87-5.1

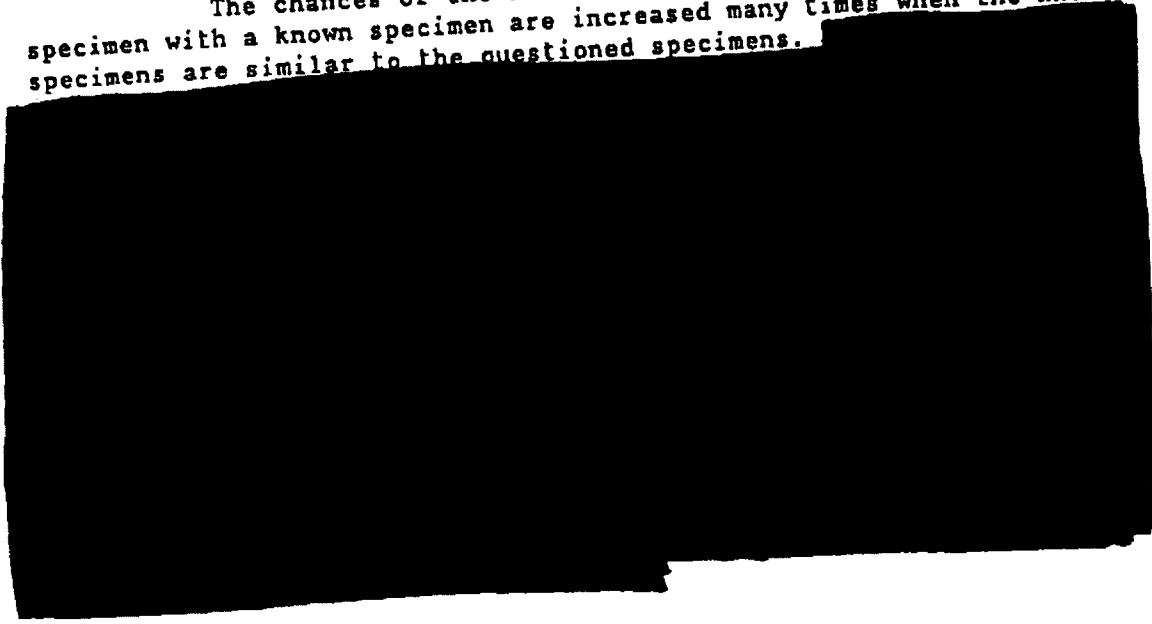


EFFECTIVE: 07/23/90

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87-5.2 Obtaining Known Handwriting Samples

The chances of the FBI Laboratory identifying a questioned specimen with a known specimen are increased many times when the known specimens are similar to the questioned specimens.



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EFFECTIVE: 07/23/90

87-5.2.1 Legal Requirements

(1) Each page of samples taken from a subject should bear subject's own name or initials, written by the subject, as well as the date.

(2) At the conclusion of the sample taking, a statement that the samples were provided voluntarily should be written, in the subject's handwriting, even though dictated by the Agent. It should be dated, and witnessed by the Agent.

(3) If obtained pursuant to a court order, no such statement is necessary. The samples still must be signed by the subject, dated, and witnessed by the Agent.

EFFECTIVE: 07/23/90

87-5.3 Report Writing Rules

EFFECTIVE: 02/16/89

87-5.3.1 Unknown Subject Cases

You should be guided by current Bureau rules concerning preparation of prosecutive reports.

EFFECTIVE: 02/16/89

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87-5.3.2 Other Reporting Requirements

(1) Only one copy of ITSP prosecutive report need be submitted unless dissemination at FBIHQ is desired. If so, that dissemination should be set out in the copy count of the report, with the reason justifying the dissemination stated on the FD-272.

(2) Reports must be prepared when requested by the USA's Office.

(3) A summary airtel should be prepared in any case that generates great public interest or to advise of significant developments in such a case.

(4) In major cases the office of origin should advise logical field offices of details of the theft, suspects' descriptions, description of the stolen property, and request that local law enforcement agencies and informants be contacted. This dissemination should be made in LHM under suitable cover communication, and the LHM must be written so as to allow receiving offices to reproduce it and provide it to such local law enforcement agencies as they determine are appropriate.

(5) In all ITSP cases involving armored carrier/courier losses, an FD-430 must be submitted to FBIHQ, Attention: Violent Crimes Unit, Criminal Investigative Division in duplicate, within 30 working days. The OO shall determine if regional or other field office notification is necessary. (See MIOG, Part I, 15-4(9), 91-12.1, 192-11.1, & 192-11.2; MAOP, Part II, 9-6.)

EFFECTIVE: 11/30/93

87-6 VENUE

Any district in which the offense was begun, continued, or completed (Title 18, USC, Section 3237).

EFFECTIVE: 02/16/89

87-7 PENALTIES

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EFFECTIVE: 02/16/89

87-7.1 Interstate Transportation of Stolen Property (ITSP),
(Title 18, U.S. Code, Section 2314)

A \$10,000 fine, or ten years' imprisonment, or both.

EFFECTIVE: 02/16/89

87-7.2 Receiving Stolen Property, (Title 18, U.S. Code, Section
2315)

A \$10,000 fine, or ten years' imprisonment, or both.

EFFECTIVE: 11/18/83

87-8 CHARACTER - INTERSTATE TRANSPORTATION OF STOLEN PROPERTY
(ITSP)

EFFECTIVE: 11/18/83

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SECTION 88. UNLAWFUL FLIGHT TO AVOID PROSECUTION,
CUSTODY, CONFINEMENT, AND GIVING TESTIMONY

88-1 BACKGROUND

EFFECTIVE: 07/28/87

88-1.1 Section 1073

The original Unlawful Flight Statute, Title 18, USC, Section 408e, was enacted on 5-18-34, and covered only flights to avoid prosecution and giving testimony in the eight specific crimes of murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, extortion accompanied by threats of violence, and attempts to commit any of the above. On 8-2-46, it was amended to include flights to avoid custody and confinement after conviction for the above offenses. On 9-1-48, the current Unlawful Flight Statute, Title 18, USC, Section 1073, was enacted. This section was amended periodically to include a total of 11 specific felonies. On 10-4-61, the Organized Crime Bill was enacted which amended Title 18, USC, Section 1073, to include all state felonies and in the case of New Jersey, high misdemeanors. On 12-28-80, Congress enacted Public Law 96-611, Section 10(a) of which states in part, "the Congress hereby expressly declares its intent that Section 1073 of Title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable state felony statutes."

EFFECTIVE: 07/28/87

88-1.2 Section 1074

Title 18, USC, Section 1074, was enacted on 5-6-60, as part of the Civil Rights Act of 1960. This section added the local offenses of damaging, or attempting to damage, by fire or explosive, any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center, or educational institution, public or private, which were not covered under Section 1073 at that time.

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EFFECTIVE: 07/28/87

88-2 STATUTES, PENALTIES, AND PROSECUTION

EFFECTIVE: 07/28/87

88-2.1 Section 1073

"Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees, for a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or which, in the case of New Jersey, is a high misdemeanor under the laws of said state, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by death or which is a felony under the laws of such place, or which in the case of New Jersey, is a high misdemeanor under the laws of said state, is charged, or (3) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a state empowered by the law of such state to conduct investigations of alleged criminal activities, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section alleged to have been committed, and only upon formal approval in writing by the Attorney General or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated."

EFFECTIVE: 07/28/87

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88-2.2 Section 1074

"(a) Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully attempting to or damaging or destroying by fire or explosive any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center or educational institution, public or private, or (2) to avoid giving testimony in any criminal proceeding relating to any such offense shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"(b) Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement: Provided, however, That this section shall not be construed as indicating an intent on the part of Congress to prevent any State, Territory, Commonwealth, or possession of the United States of any jurisdiction over any offense over which they would have jurisdiction in the absence of such section."

EFFECTIVE: 07/28/87

88-2.3 FBIHQ Approval is Necessary for Investigation Under
Section 1074

Upon receipt of a request for Bureau assistance in locating a fugitive subject or witness under Section 1074 (damaging property), immediately advise FBIHQ of the full details and do not conduct any investigation without prior FBIHQ approval.

EFFECTIVE: 07/28/87

88-3 REQUIREMENTS FOR INVESTIGATION

EFFECTIVE: 07/28/87

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88-3.1 Unlawful Flight to Avoid Prosecution

(1) Local authorities must have a warrant outstanding for the subject's arrest charging him/her with an offense covered in the statute and agree to extradite and prosecute upon the subject's apprehension.

(2) There must be sufficient evidence present to show with reasonable certainty that the subject fled interstate for the purpose of avoiding prosecution.

(3) Prior to the issuance of the Federal process the local prosecuting attorney or police agency should request assistance in writing to the USA.

(4) The USA must authorize the filing of a complaint and Federal arrest process must be outstanding prior to the time that investigation is instituted.

EFFECTIVE: 07/28/87

88-3.2 Unlawful Flight to Avoid Custody or Confinement

(1) Local authorities must have a warrant outstanding for the subject's arrest charging him/her with an offense covered in the statute and agree to extradite and prosecute or reconfine upon the subject's apprehension.

(2) There must be sufficient evidence present to show with reasonable certainty that the subject fled interstate for the purpose of avoiding custody or confinement.

(3) Since time is of the essence, upon issuance of a local warrant and an oral request for assistance by a competent local official, immediately present the facts to the USA for authorization of a Federal warrant. Local authorities should be advised to direct a letter to the USA confirming their oral request for assistance, however, do not delay your presentation to the USA and obtaining Federal process awaiting his/her receipt of the written request.

(4) The USA must authorize the filing of a complaint and Federal arrest process must be outstanding prior to the time that investigation is instituted.

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EFFECTIVE: 07/28/87

88-3.3 Unlawful Flight to Avoid Giving Testimony

(1) A criminal proceeding must have been actually instituted against a subject in the state court charging him/her with an offense covered in the statute.

(2) There must be sufficient evidence present to establish that the fugitive witness fled interstate for the purpose of avoiding giving testimony in this criminal proceeding. The fact that a fugitive witness has fled interstate after having been served with a subpoena in the state criminal proceeding will assist in establishing that the purpose of the flight was to avoid testifying. However, where sufficient independent evidence exists to establish that the fugitive witness fled with the purpose of avoiding testifying, it is not necessary that he/she have previously been served with a subpoena.

(3) Local authorities must have a warrant outstanding for the fugitive witness and be willing to extradite upon apprehension.

(4) Prior to the issuance of the Federal process, the local prosecuting attorney or police agency should request assistance in writing to the USA.

(5) The USA must authorize the filing of a complaint and Federal arrest process must be outstanding prior to the time that investigation is instituted.

EFFECTIVE: 07/28/87

88-3.4 Unlawful Flight - Pre-Federal Warrant Investigation

(1) Where a request is received from local or state authorities under the provisions of the Unlawful Flight Statute for FBI fugitive assistance and such request fails to contain sufficient evidence as to the interstate character of the violation to justify or support the issuance of the Federal complaint and warrant, these authorities should first be requested to supply the evidence of requisite character. In particularly serious cases, the FBI may be requested to conduct an investigation to establish the jurisdictional facts of apparent flight after the commission of the state felony. If an SAC does not concur that a case is serious

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enough to warrant initiating an investigation to establish the jurisdictional facts of apparent interstate flight, the USA, if USA still desires a preliminary FBI inquiry, as USA has been instructed, may report the matter at once to the Criminal Division, General Litigation and Legal Advice Section, [REDACTED] so that it can be discussed with FBIHQ.

(2) In those situations where the SAC has fully considered the seriousness of the case and does not concur that a pre-Federal warrant UFAP investigation is warranted and the USA still insists on a preliminary FBI inquiry, conduct no investigation and advise the USA that none will be conducted until it is authorized by FBIHQ. It should be suggested to the USA that USA consult with the Department in these situations. Thereafter, advise the [Fugitive/Government Reservation] Crimes Unit, Criminal Investigative Division, by telephone, followed by teletype, of the facts together with the field division's recommendations.

(3) As a general rule, in the absence of Federal UFAP process, anything more than a phone call or inquiries made of local or state authorities is interpreted by FBIHQ as "pre-Federal warrant investigation." Offices are instructed to decline, in all but the most compelling and serious situations, to conduct pre-Federal warrant investigations aimed at developing sufficient probable cause to support the interstate flight of the subject, as this is the responsibility of local and state authorities requesting FBI fugitive assistance. When a pre-Federal warrant investigation is agreed upon by the SAC and the USA without specific Departmental or FBIHQ involvement, submit, on a UACB basis, an airtel setting forth the full facts demanding the office's involvement. Such instances should rarely occur.

EFFECTIVE: 02/16/89

88-3.4.1 Fugitive Task Force (FTF) - Preliminary Inquiry (PI)

(1) In order to establish a practical and effective working relationship in an FTF environment, a PI may be initiated within the Attorney General Guidelines.

(2) Only those matters referred by and originating within the investigative jurisdiction of FTF nonfederal member agencies should be considered for initiation of a PI.

(3) [Deleted]

(4) Prior to initiating a PI, it is important to document

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those facts which indicate the POSSIBILITY that there has been an unlawful flight to avoid prosecution or confinement.

(5) |Deleted|

(6) |The standard for initiating a Preliminary Inquiry (PI) is less than the REASONABLE INDICATION of criminal activity that is necessary to open a full investigation. A PI is based upon the POSSIBILITY of criminal activity. Therefore, the opening communication must state the existence of a state or local felony warrant and additional information which indicates the POSSIBILITY of interstate flight. The following are examples of circumstances which may be combined to form a factual basis to establish the POSSIBILITY of interstate flight:|

(a) |existence of a driver's license;|

(b) |proximity of a subject's last known residence to another state's border;|

(c) |the fugitive has been at large for an extensive period of time;|

(d) |the termination of public utilities; or|

(e) |the existence of a motor vehicle registration.

The above facts are only examples of the information that, in conjunction with a state or local felony warrant, may provide the predication necessary to initiate a PI, and is not intended to be all inclusive.

All cases that are accepted by an FTF shall be opened as a PI or full investigation. A separate file number must be assigned to each fugitive subject referred by state and local agencies; these matters will not be worked out of a control file.|

(7) PIs should be completed within 90 days of initiation. Requests for succeeding 30-day extensions should be submitted to FBIHQ on a UACB basis at least 14 calendar days prior to the expiration of the PI. The extension request should include the following information:

(a) The basis for initiation of the PI.

(b) A summary of investigation conducted during the

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initial period or previous extension.

(c) Reason for the extension.

(8) In the event that the PI uncovers no evidence that the subject has fled interstate, authority to continue the investigation ceases and the PI should be closed.

(9) When PC of interstate flight is developed, a federal warrant should immediately be obtained prior to conducting any further investigation.

(10) Out-of-state leads should not be set in PIs without sufficient documented justification. Examples of proper out-of-state leads are record checks or the interview of an incarcerated individual. Leads for out-of-state interview at a location where the subject may be located should be inappropriate. Under NO circumstances should "locate-and-apprehend" leads be set absent federal process.

(11) These matters should be entered in FOIMS as PIs and include "Preliminary Inquiry" in the caption as follows:

JOHN DOE;
UFAP-(underlying local charge);
Preliminary Inquiry
OO: (office of origin)

(12) Upon issuance of federal process "Preliminary Inquiry" should be deleted from the title and the FOIMS entry converted to a full investigation record.

EFFECTIVE: 07/16/96

88-4 STATUTE OF LIMITATIONS

EFFECTIVE: 02/08/80

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88-4.1 Unlawful Flight to Avoid Prosecution, Custody, and
Confinement

The statute of limitations is tolled in every case of a violation of the Fugitive Felon Act where the flight is with the intent to avoid prosecution, custody, or confinement, since a person cannot be a fugitive felon without also being a fugitive from justice within the meaning of Title 18, USC, Section 3290.

EFFECTIVE: 02/08/80

88-4.2 Unlawful Flight to Avoid Giving Testimony

This situation does not apply in the case of a person fleeing to avoid giving testimony. Since flight to avoid giving testimony is not made punishable by state law, one does not become a fugitive from justice under Title 18, USC, Section 3290, by simply fleeing to avoid giving testimony. Whether or not a person becomes a fugitive from justice from the Federal offense of fleeing to avoid giving testimony becomes a factual question. If the facts show that subsequent to the flight to avoid giving testimony, the witness does in fact become a fugitive from justice, the statute of limitations is tolled.

EFFECTIVE: 02/08/80

88-5 RETURN OF FUGITIVES TO STATE JURISDICTION

EFFECTIVE: 02/08/80

88-5.1 Federal Prosecution

Although a Federal penalty is provided for a violation of this act, its primary purpose is to aid the states in the return of their fugitives for trial or reconfinement. Therefore, Federal prosecution is not intended and will only occur in rare instances upon the formal approval in writing by the Attorney General or an Assistant Attorney General.

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EFFECTIVE: 02/08/80

88-5.2 Extradition is the State's Responsibility

(1) It is not the purpose of this act to supersede state rendition procedures when interstate rendition can be accomplished without the assistance of the federal government. The federal government cannot assume the obligation of returning, through its removal machinery, all these fugitives despite the fact that such persons technically come within the terms of the Fugitive Felon Act. This should be made clear to the state authorities at the time they request assistance.

(2) As an aid to the wanting state authorities, the apprehending office should interview the fugitive regarding the local offense and verbally determine his/her intention regarding waiving state extradition proceedings. The wanting state authorities should be immediately notified of the fugitive's arrest, place of incarceration, admissions, and intention regarding extradition by the office of origin. The office of origin should specifically point out to them that the fugitive is not bound by his/her verbal intent to waive extradition and can at any time before removal demand and receive an extradition hearing.

(3) Unless there are unusual circumstances present in the particular case, the apprehending office should transfer the custody of the fugitive to appropriate state or local authorities without unnecessary delay, and should request the office of origin to notify the United States Attorney's office to promptly move for the dismissal of the complaint. When this procedure is followed, it is not necessary to take the fugitive before a magistrate judge for an initial appearance pursuant to Fed. R. Crim. P. 5(a). (See MIOG, Part II, 2-7.1 and Legal Handbook for Special Agents, 3-5.) (The Department of Justice Criminal Division has advised FBIHQ that it is not necessary to wait until the UFAP warrant has actually been dismissed before releasing the subject to state or local authorities, but it is important that efficient procedures be implemented and followed to make sure that UFAP warrants are promptly dismissed after notification of an arrest is given.) (See MIOG, Part II, 11-1.4.)

(4) Should the wanting state authorities be unwilling to institute extradition proceedings after a subject's apprehension, the USA should be notified in order for him/her to cause dismissal of the federal process.

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| (5) | It is recognized that there will be instances where the state funds for the extradition of fugitives are exhausted, and possibly other situations will arise where it will be recognized as impossible for the state to effect extradition, but in all instances the state authorities should be given an opportunity to return the fugitive by regular rendition.

| (6) | In those instances where state rendition procedure has been attempted and has failed to secure the return of the fugitive, state authorities may request the USA to institute action under the Fugitive Felon Act. The USA must first obtain the authorization of the Department before attempting said action.

EFFECTIVE: 05/10/96

88-5.3 Dismissal of Federal Process

After the fugitive's apprehension and his/her extradition by the wanting state authorities for prosecution on the state offense or reconfinement, the Federal process should be dismissed and the case closed.

EFFECTIVE: 03/11/83

88-6 UNKNOWN SUBJECT CASES

Do not accept a case for investigation where the subject has not been properly identified by state authorities.

EFFECTIVE: 03/11/83

| 88-7 | PARENT-CHILD ABDUCTION MATTERS

EFFECTIVE: 03/11/83

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88-7.1 Policy

(1) The federal Kidnapping Statute specifically precludes from investigation the kidnapping of a minor child by the parent, except in cases where the abducting parent removes or retains the child outside the United States. Cases involving parental removal or retention of the child outside the United States should be investigated under the Kidnapping character as a violation of Title 18, USC, Section 1204, the International Parental Kidnaping Crime Act of 1993. (See MIOG, Part I, Section 7-4.7.)

(2) Parental abductions which do not involve an extraterritorial removal/retention of a child and are interstate in nature are specifically precluded from investigation under the Kidnapping Statutes. However, fugitive investigations in these matters may be instituted under the Unlawful Flight Statute providing the usual unlawful flight requirements that a local or state felony warrant has been issued, local authorities have requested Bureau assistance and agree to extradite when fugitive is located and probable cause is shown to indicate the fugitive has fled the state to avoid prosecution are met. In this regard, cases where the child was legally removed from the state and the warrant subsequently issued when the fugitive parent failed to return the child should be brought to the attention of the USA's Office at the time authorization to file the federal complaint is sought. This should be done so that the USA's Office will be aware that the case should be closely scrutinized to ensure that the "moves or travels in interstate or foreign commerce" provision of the Unlawful Flight Statute has been met in conjunction with the state statute under which the fugitive parent is charged.

EFFECTIVE: 03/20/95

88-7.2 Fugitive Priorities

Fugitive priorities in UFAP cases involving parent-child abduction will be assigned in accordance with the criteria set forth in Part II, 21-2 of this manual.

EFFECTIVE: 08/19/85

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88-7.3 Deleted

EFFECTIVE: 08/19/85

88-7.4 Disposition of Victim Children Located by the FBI

(1) Local authorities, rather than the FBI, have the responsibility for taking custody of a victim child located in their jurisdiction, and their court system has the authority to ensure that the child is returned to the parent having legal custody.

(2) In order to establish a preplanned formulated procedure for the disposition of victim children located by the FBI in UFAP-Parental Kidnaping cases, each field office should contact logical law enforcement agencies and child welfare departments to determine their policies in taking custody of victim children and their court procedures for returning the victim child to the parent having legal custody.

(3) If the victim child is with the fugitive parent at the time of the arrest, the arresting SAs should take temporary custody of the victim child to ensure his/her welfare and safety. The child, however, should be immediately turned over to the appropriate local law enforcement agency or child welfare department which has the ultimate responsibility for the custody and welfare of the child located in its jurisdiction. The FBI should not return the victim child directly to the parent who was in custody of the child prior to the parental kidnaping, since this is the responsibility of the above agencies and their court system.

(4) If the victim child is not with the fugitive parent at the time of the arrest and is subsequently determined to be at school, with a babysitter, staying with a relative, or other like situations, the arresting SAs should not take temporary custody of said child, since the child's welfare and safety are not in question. In these situations, the FBI should immediately notify the appropriate local law enforcement agency or child welfare department of the child's location in order for said agencies to resolve the issues of taking the victim child into protective custody and ensuring the child's return to the parent having legal custody through appropriate court proceedings.

(5) If the location of the victim child is known prior to the pending arrest of the fugitive parent, the FBI, if possible, should notify the appropriate local law enforcement agency or child welfare department beforehand of the child's location in order that the above issues can be resolved by said agencies and coordinated with the arrest of the fugitive

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parent by the FBI.

(6) In addition to reporting the subject's apprehension to FBIHQ, the office of origin, and known auxiliary offices, the specific disposition of the victim child, if located, should be included in the apprehension teletype. This notification should include the identity, location and telephone number of the local custodial agency and the specific individual handling the matter. The office of origin should ensure that the parent having legal custody of the child at the time of the parental kidnaping is promptly notified in order that proceedings may be instituted by said individual to regain custody of the abducted child.

EFFECTIVE: 08/19/85

88-7.5 Access to Information from the Federal Parent Locator Service (FPLS), UFAP-Parental Kidnaping-Child Abduction Matters

FPLS requires that a certification letter be submitted with each request for information regarding a Parental Kidnaping subject. This letter certifies that:

(1) The request is being made solely to locate an individual in connection with a parental kidnaping or child custody case.

(2) Any information obtained through FPLS will be treated as confidential, will be used solely for the purpose for which it was obtained and will be safeguarded in accordance with the Privacy Act of 1974 (Title 5, USC, Section 552a).

(3) That Federal tax information obtained through the FPLS will not be used or disclosed in violation of Title 26, USC, Section 6103, and Title 26, USC, Section 7213 (a) (1).

(4) That SAC, Baltimore, or SAC's designee, will be the certifying official for the FBI. Field offices desiring to request information from the FPLS should submit an airtel to the Baltimore Field Office with a lead at Rockville, Maryland, to contact the FPLS. The airtel should set forth the following descriptive data in order that a complete search of all records available can be made by FPLS:

(a) Subject's name

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- (b) Known aliases
- (c) Social Security Number (SSAN), if known
- (d) Branch of military service, if applicable
- (e) Retired military and branch, if applicable
- (f) Whether subject receives any veteran's benefits
- (g) Federal employee, if applicable (past, present
or retired)
- (h) Date of birth
- (i) Place of birth
- (j) Subject's father's full name, if known
- (k) Subject's mother's full name, including maiden
name, if known

(5) In cases where the SSAN is known, the results of this search will be provided to the FBI within 14 days. If the SSAN is unknown, hand searches will be conducted by the Social Security Administration, which may take several months to complete. FPLS will furnish the address and employment data on file at the time the search is made.

(6) Searches can also be conducted on the victim's name, provided that the applicable descriptive data, as set out above, is furnished. These searches are helpful if the victim is eligible to receive either social security benefits or veteran's benefits from a deceased parent. In some cases, the victim may be employed on a part-time basis.

(7) All offices are reminded that requests for information from FPLS can be made in UFAP-Parental Kidnaping cases only. Leads to contact FPLS should not be set out in any other types of investigation.

EFFECTIVE: 08/19/85

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88-8

JUVENILE SUBJECTS

(1) A request for assistance to locate a juvenile under the Unlawful Flight Statute, who flees interstate to avoid prosecution, custody, or confinement, should be accepted or refused for investigation based on whether the individual has been handled locally as an adult or as a juvenile on the state offense in question.

(2) If the individual has been treated as an adult and charged with or convicted of the substantive criminal offense in question, investigation should be instituted under the Unlawful Flight Statute.

(3) If the individual has been handled as a juvenile and charged with juvenile delinquency or adjudged a juvenile delinquent, the Unlawful Flight Statute does not apply and investigation should not be instituted since juvenile proceedings are not considered a criminal offense.

EFFECTIVE: 08/19/85

88-9

STATE PAROLE AND PROBATION VIOLATORS

(1) Requests for assistance to locate state parole and probation violators who, after conviction for a crime covered by the Unlawful Flight Statute, are placed on parole or probation for said crime and flee interstate, fall within the provisions of the Unlawful Flight Statute.

(2) Local authorities should be advised to submit a formal order revoking the subject's parole or probation, together with a communication to the USA making a formal request for assistance.

(3) These matters, if orally requested, should be promptly presented to the USA and investigation should not be held in abeyance pending receipt by the USA of the above formal written request.

EFFECTIVE: 08/19/85

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88-10 INDIVIDUALS FREE ON STATE BOND

(1) Requests for assistance to locate individuals who flee interstate after being released on local bond to await court action on a charge covered by the Unlawful Flight Statute fall within the provisions of this act and should be promptly presented to the USA.

(2) If USA declines to authorize a complaint for the issuance of an Unlawful Flight warrant based on the grounds that there has not been an actual forfeiture of bond in the case, promptly furnish the full details to FBIHQ by cover airtel enclosing an original and four copies of an LHM for referral to the Department for a final determination.

EFFECTIVE: 08/19/85

88-11 VERIFYING STATE PROCESS AND INTENT TO EXTRADITE AND PROSECUTE OR RECONFINE

The status of the warrant issued by the state authorities for the subject's arrest and their continued intention to extradite and prosecute or reconfine the subject upon his/her apprehension must be confirmed once a year.

EFFECTIVE: 08/19/85

88-12 REPORTING PROCEDURES (See MIOG, Part I, 25-10, 76-1.8, 76-2.9, 76-3.13, 115-7 & Part II, 21-29.)

(1) Upon initiating an unlawful interstate flight fugitive investigation, two copies of an FD-65 should be promptly forwarded to FBIHQ, and one copy submitted directly to the Savannah Information Technology Center (SITC), by the office of origin. Upon the fugitive's apprehension or location, the locating office must promptly notify FBIHQ by teletype (at least ROUTINE in precedence), followed by Form FD-515 entry into the Integrated Statistical Reporting and Analysis Application (ISRAA). The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue.

(2) As a general rule, Prosecutive Reports are not required in unlawful interstate flight cases and, therefore, are not to be submitted to FBIHQ unless a specific request is made for same.

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EFFECTIVE: 10/11/94

88-13 CHARACTER

(1) Section 1073 - UNLAWFUL FLIGHT TO AVOID PROSECUTION (UFAP), UNLAWFUL FLIGHT TO AVOID CUSTODY (UFAC), UNLAWFUL FLIGHT TO AVOID CONFINEMENT (UFAC) - followed by the local substantive offense; or UNLAWFUL FLIGHT TO AVOID GIVING TESTIMONY (UFAT) - followed by the local substantive crime charged in the criminal proceedings.

(2) Section 1074 - UNLAWFUL FLIGHT TO AVOID PROSECUTION (UFAP), UNLAWFUL FLIGHT TO AVOID CUSTODY (UFAC), UNLAWFUL FLIGHT TO AVOID CONFINEMENT (UFAC), UNLAWFUL FLIGHT TO AVOID GIVING TESTIMONY (UFAT) - followed by DAMAGING PROPERTY.

EFFECTIVE: 08/19/85

|| 88-14 CHILD SUPPORT RECOVERY ACT OF 1992

EFFECTIVE: 11/29/93

| 88-14.1 Statute
| Title 18, USC, Section 228

EFFECTIVE: 11/29/93

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88-14.2 Background

The Child Support Recovery Act of 1992 (CSRA), Public Law No. 102-521, makes the willful failure to pay a past due support obligation with respect to a child residing in another state a Federal offense. A first violation of the CSRA is punishable by six months' imprisonment and/or fine. Subsequent violations are punishment by two years' imprisonment and/or fine. The FBI has investigatory jurisdiction.

EFFECTIVE: 11/29/93

88-14.3 Elements of the Offense

The United States must prove that the defendant:

- (1) Having the ability to pay,
- (2) Did willfully fail to pay,
- (3) A known past due (child) support obligation,
- (4) Which has remained unpaid for longer than one year
OR is an amount greater than \$5,000,
- (5) For a child who resides in another state.

Interstate flight is NOT an element of the offense.

EFFECTIVE: 11/29/93

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88-14.4 Definitions

(1) Past due support obligation

The CSRA defines "past due support obligation" as any amount:

(a) determined under a court order or an order of an administrative process pursuant to the law of a state to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

(b) that has remained unpaid for a period longer than one year, or is greater than \$5,000.

(2) Willfulness

(a) According to the legislative history, willfulness has the same meaning as it has for the purposes of Federal criminal law. Willfulness is the knowing and intentional violation of a known legal duty.

With respect to ability to pay, the legislative history states:

"The government must establish beyond a reasonable doubt, that at the time payment was due the (defendant) possessed sufficient funds to enable him to meet his obligation or that the lack of sufficient funds on such date was created by (or was the result of) a voluntary and intentional act without justification in view of all the financial circumstances of the (defendant)."

(b) Willfulness cannot be presumed from nonpayment alone. The Government is required to prove that the defendant, as of the date specified as the date of the offense, willfully failed to pay an outstanding amount.

(c) Criminal culpability is not obviated by partial payment of support obligations because the statute defines past due support obligation as "any amount." However, partial payment may be relevant to inability to pay, which would negate willfulness. The circumstances of any case in which partial payment has been made, including the relationship of the amount of partial payment to the total arrearage and ability to pay the arrearage, should be considered before proceeding.

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EFFECTIVE: 11/29/93

88-14.5 Investigative/Prosecutive Procedures/Policy

(1) On 7/13/93, the Attorney General signed national guidelines outlining the procedures to be followed by Department of Justice personnel in the enforcement of the CSRA. These guidelines make the United States Attorney in each judicial district responsible for determining which cases will be selected for investigation and prosecution. Therefore, the FBI will only investigate violations of the CSRA referred by the U.S. Attorneys Offices.

(2) While complaints and referrals for investigation may come from private lawyers, individual complainants, or state and local agencies, as a matter of policy, the U.S. Attorneys Office will generally only accept referrals from state Title IV-D agencies.

(3) Title IV-D of the Social Security Act, 42 USC Section 651 et seq., requires states to establish programs for the enforcement of child support. The agencies operating these programs are known as IV-D agencies. These agencies must pursue child support on behalf of individuals who are receiving public assistance as well as at the request of individuals who are not. In addition, there may be other qualified agencies involved with child support. Ordinarily an individual complainant should be encouraged to work with a IV-D agency or other appropriate agency to pursue other available remedies before action is taken by Federal prosecutors.

(4) Because of the variation among state laws, DOJ policy encourages U.S. Attorneys to coordinate with IV-D officials or their designees and other appropriate officials on local and state levels to establish referral procedures and may wish to establish local committees to develop local guidelines. FBI personnel are authorized to serve on these committees.

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88-14.6 Referral Package

U.S. Attorneys will require a referral package in every case. Each referral package will include all background information, copies of court records and orders, and ability-to-pay information. As a general rule, cases will be accepted by the U.S. Attorneys Office only if they make clear that all reasonably available remedies have been exhausted. Among such cases, priority should be given to cases where the following is established:

(1) a pattern of flight from state to state to avoid payment or flight after service of process for contempt or contempt hearing; or

(2) a pattern of deception to avoid payment such as changing employment, concealing assets or location, or using false social security numbers; or

(3) failure to make support payments after being held in contempt; or

(4) when the failure to make child support payments has a nexus to other potential Federal charges, such as bankruptcy fraud (i.e., concealing assets), bank fraud (i.e., false statements to a bank), Federal income tax charges (i.e., false statement or tax evasion) or related criminal conduct.

EFFECTIVE: 11/29/93

88-14.7 Notice to Target and Charging

(1) If, after reviewing all pertinent documents, further action is believed to be warranted, the following steps will be taken by the U.S. Attorneys Office prior to filing charges:

(a) Before referring any case involving the CSRA to the FBI, a letter will be sent to the nonpaying parent advising them of the CSRA and that they appear to be in violation of it and requesting payment of the arrearage within a specified period (30 days). If payment is not made, the matter will be referred to the FBI.

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(b) After the FBI completes the investigation and prior to the filing of charges, a second letter will be sent by the U.S. Attorney advising the target that charges will be filed unless satisfactory payment is made within a specified period of time (30 days).

(c) If satisfactory payment is still not forthcoming and no adequate explanation for nonpayment has been advanced, U.S. Attorneys Offices should file charges against the nonpaying parent.

(2) Since the first offense is a misdemeanor, the U.S. Attorneys Office will use summons to obtain the presence of the defendant in court.

(3) As a matter of policy, except in extraordinary cases, pretrial diversion will not be used to resolve these cases, since the impact of the felonious second offense would be avoided by pretrial diversion of the first offense.

(4) To ensure that criminal process is not used to enforce a civil debt, once charges are filed, a case should not be routinely dismissed merely because an offender makes payment.

EFFECTIVE: 11/29/93

88-14.8 Character and Alpha Classification

(1) CSRA matters will be worked as 88E classifications. The CSRA is not a fugitive-related investigation but is a substantive FBI investigation predicated on a violation of Title 18, USC, Section 228, Failure to Pay Legal Child Support Obligations.

(2) These matters should be entered in FOIMS as CSRA MATTERS and include "CSRA MATTERS" in the caption as follows:

JOHN DOE;
CSRA MATTERS;
OO: (Office of Origin)

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SECTION 89.

ASSAULTING, KILLING OR ATTEMPTING TO KILL
A FEDERAL OFFICER; CONGRESSIONAL, CABINET
AND SUPREME COURT ASSASSINATION, KIDNAPING,
AND ASSAULT; CONSPIRACY TO IMPEDE OR INJURE
AN OFFICER; CRIMES AGAINST FAMILY MEMBERS

89-1

BREAKDOWN OF THE 89 CLASSIFICATION (See MIOG, Part I,
267-4(7).)

The 89 classification is made up of four separate and distinct violations which are as follows: (1) Assaulting, Killing or Attempting to Kill a Federal Officer (AFO/KFO); (2) Congressional, Cabinet, and Supreme Court Assassination, Kidnaping, and Assault; (CCSCAKA); (3) Conspiracy to Impede or Injure an Officer (CIO); and (4) Crimes Against Family Members (CAFM). For purposes of clarity and reference, this section will set forth these violations individually in a four-part format.

NOTE: Upon receipt of information sufficient to initiate an investigation under the Assaulting, Killing or Attempting to Kill a Federal Officer classification, and when the violation has occurred on Indian Lands, a new Crime on Indian Reservation (198G classification) case should be promptly opened. See Section 198-1.5 (7) for complete details.

EFFECTIVE: 11/23/94

89-2

ASSAULTING, KILLING OR ATTEMPTING TO KILL A FEDERAL
OFFICER

EFFECTIVE: 02/25/91

89-2.1

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EFFECTIVE: 11/23/94

89-2.2 Statutes and Penalties (See MIOG, Part I, 44-1.1(10),
89-3.2(2), 89-3.6(2), 175-2(2).)

Assaulting, Killing or Attempting to Kill a Federal
Officer is covered by seven statutes which are set forth as follows:

(1) Assaulting, Resisting or Impeding Certain Officers or
Employees, Title 18, USC, Section 111.

"(a) In general --
Whoever forcibly assaults, resists, opposes, impedes,
intimidates, or interferes with any person designated in Section 1114
of this Title while engaged in or on account of the performance of his
official duties, or forcibly assaults or intimidates any person who
formerly served as a person designated in Section 1114 on account of
the performance of official duties during such person's term of
service, shall be fined under this title or imprisoned not more than
three years, or both."

"(b) Enhanced penalty -- Whoever, in the commission
of any such acts, described in subsection (a), uses a deadly or
dangerous weapon, shall be fined under this title or imprisoned not
more than ten years, or both."

(2) Protection of Officers and Employees of the United
States, Title 18, USC, Section 1114.

"Whoever kills or attempts to kill any judge of the United
States,

any United States Attorney,
any Assistant United States Attorney, or
any United States marshal or deputy marshal or person
employed to assist such marshal or deputy marshal,
any officer or employee of the Federal Bureau of
Investigation of the Department of Justice,
any officer or employee of the Postal Service,
any officer or employee of the Secret Service, or of the
Drug Enforcement Administration,
any officer or member of the U.S. Capitol Police,
any member of the Coast Guard,
any employee of the Coast Guard assigned to perform

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investigative, inspection or law enforcement functions,
any officer or employee of the Federal Railroad
Administration assigned to perform investigative, inspection, or law
enforcement functions,
any officer or employee of any United States penal or
correctional institution,
any officer, employee or agent of the customs, or of the
internal revenue or any person assisting him in the execution of his
duties,

any immigration officer,
any officer or employee of the Department of Agriculture
or of the Department of the Interior designated by the Secretary of
Agriculture or the Secretary of the Interior to enforce any Act of
Congress for the protection, preservation, or restoration of game and
other wild birds and animals,
any employee of the Department of Agriculture designated
by the Secretary of Agriculture to carry out any law or regulation, or
to perform any function in connection with any Federal or State
program or any program of Puerto Rico, Guam, the Virgin Islands or any
other commonwealth, territory, or possession of the United States, or
the District of Columbia, for the control or eradication or prevention
of the introduction or dissemination of animal diseases,

any officer or employee of the National Park Service,
any civilian official or employee of the Army Corps of
Engineers assigned to perform investigations, inspections, law or
regulatory enforcement functions, or field-level real estate
functions,

any officer or employee of, or assigned to duty in, the
field service of the Bureau of Land Management, or
any officer or employee of the Indian Field Service of the
United States, or

any officer or employee of the National Aeronautics and
Space Administration directed to guard and protect property of the
United States under the administration and control of the National
Aeronautics and Space Administration,

any security officer of the Department of State or the
Foreign Service, or

any officer or employee of the Department of
Education; the Department of Health and Human Services, the Consumer
Product Safety Commission, Interstate Commerce Commission, the
Department of Commerce, or of the Department of Labor, or of the
Department of the Interior, or of the Department of Agriculture
assigned to perform investigative, inspection or law enforcement
functions, or

any officer or employee of the Federal Communications
Commission performing investigative, inspection or law enforcement

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functions, or
any officer or employee of the Department of Veterans Affairs assigned to perform investigative or law enforcement functions, while engaged in the performance of his official duties, or on account of the performance of his official duties, or
any United States probation or pretrial service officer,

or
any United States magistrate, or any officer or employee of any department or agency within the intelligence community (as defined in Section 3.4(F) of Executive Order 12333, December 8, 1981, or successor orders) not already covered under the terms of this section, or

any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration, or any other officer, agency or employee of the United States designated for coverage under this section in regulations issued by the Attorney General engaged in or on account of the performance of his official duties or

any officer or employee of the United States or any agency thereof designated to collect or compromise a Federal claim in accordance with Sections 3711 and 3716 - 3718 of Title 31 or other statutory authority shall be punished as provided under Sections 1111 and 1112 of this title, except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years."

(3) | THREATS TO ASSAULT, KIDNAP, OR MURDER A UNITED STATES OFFICIAL, A UNITED STATES JUDGE, A FEDERAL LAW ENFORCEMENT OFFICER, OR AN OFFICIAL WHOSE KILLING WOULD BE A CRIME UNDER TITLE 18, USC, SECTION 1114 ARE COVERED IN TITLE 18, USC, SECTION 115 (B).

On 10/12/84, Title 18, USC, was amended by creating Section 115. This statute makes it a Federal offense to impede, intimidate, interfere with, or retaliate against certain Federal officials by assaulting, kidnaping, or murdering, or threatening to assault, kidnap, or murder a member of his/her family. See 89-5 concerning "Crime Against Family Members of Federal Officials (CAFM)." On 11/18/88, Public Law 100-690 amended Title 18, USC, Section 115 by adding a provision which brought the Federal officials themselves within the purview of the statute. This amendment made it a Federal crime to threaten to assault, kidnap, or murder a United States official, a United States judge, a Federal law enforcement officer or an official whose killing would be a crime under Title 18, USC,

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Section 1114.

Excerpts of this statute concerning threats against Federal officials by threatening or injuring a family member, Title 18, USC, Section 1115, are as follows:

"(a) (1) Whoever -

"... (B) threatens to assault, kidnap, or murder a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section (Title 18, USC, Section 1114),

with intent to impede, intimidate, or interfere with such official, judge or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against such official, judge, or law enforcement officer on account of the performance of official duties shall be punished as provided in subsection (b)."

"... (b) (4) A threat made in violation of this section shall be punished by a fine of not more than \$5,000 or imprisonment for a term of not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years."

"(c) As used in this section, the term --

"(1) 'Federal law enforcement officer' means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law;

"(3) 'United States judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate; and

"(4) 'United States official' means the President, President-elect, Vice President, Vice-President-elect, a Member of Congress, a member of the executive branch who is the head of a department listed in Title 5, USC, Section 101, or the Director of the Central Intelligence Agency."

(4) Conspiracy to murder, Title 18, USC, Section 1117.
"If two or more persons conspire to violate section 1111, 1114, or 1116 of this title, and one or more of such persons do any overt act

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to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life."

(5) Murder, Title 18, USC, Section 1111.

"(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnaping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, burglary, or robbery or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

"Any other murder is murder in the second degree.

"(b) Within the special maritime and territorial jurisdiction of the United States,

"Whoever is guilty of murder in the first degree, shall suffer death unless the jury qualifies its verdict by adding thereto 'without capital punishment,' in which event he shall be sentenced to imprisonment for life;

"Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life."

It should be noted that when enacted, Section 1111 provided for the death penalty under certain circumstances. However, in a 1972 Supreme Court decision, *Furman v. Georgia*, it was held that the imposition of the death sentence constitutes cruel and unusual punishment unless strict statutory standards are provided for its application. Since Section 1111 is discretionary and does not provide the above standards, its death penalty provisions are invalid.

(6) Manslaughter, Title 18, USC, Section 1112.

"(a) Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

"Voluntary -- Upon a sudden quarrel or heat of passion.

"Involuntary -- In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might

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produce death.

"(b) Within the special maritime and territorial jurisdiction of the United States,

"Whoever is guilty of voluntary manslaughter, shall be imprisoned not more than ten years;

"Whoever is guilty of involuntary manslaughter, shall be fined not more than \$1,000 or imprisoned not more than three years, or both."

(7) Assault or Resistance, Title 18, USC, Section 2231.

"(a) Whoever forcibly assaults, resists, opposes, prevents, impedes, intimidates, or interferes with any person authorized to serve or execute search warrants or to make searches and seizures while engaged in the performance of his duties with regard thereto or on account of the performance of such duties, shall be fined not more than \$5,000 or imprisoned not more than three years, or both; and --

"(b) Whoever, in committing any act in violation of this section, uses any deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both."

(8) The kidnaping of a federal officer named in Title 18, USC, Section 1114 or designated by regulations issued by the Attorney General for coverage under Title 18, USC, Section 1114 is a violation of Title 18, USC, Section 1201(a)(5). See MIOG, Part I, Section 7-1.1 for the investigation of kidnaping matters.

(9) Protected Officers and Employees of the United States designated by the U.S. Attorney General on 5/18/94, as set forth in the Federal Register, Vol. 59, No. 95.

Part 64 of Title 28, Code of Federal Regulations (CFR) (AG Order No. 1874-94), as set forth in the Federal Register, Vol. 59, No. 95, dated 5/18/94, designates categories of Federal officers and employees who, in addition to those already designated by statute, will be within the protective coverage of Title 18, USC, Section 1114, which prohibits the killing or attempted killing of such designated officers and employees. The categories of Federal officers and employees covered by Section 1114 are also protected, while they are engaged in or account of the performance of their official duties, from a conspiracy to kill, Title 18, USC, Section 1117; kidnaping,

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Title 18, USC, Section 1201 (a)(5); forcible assault, intimidation, or interference, Title 18, USC, Section 111; and threat of assault, kidnap or murder with intent to impede, intimidate, or retaliate against such officers or employees, Title 18, USC, Section 115 (a)(1)(B). In addition, the immediate family members of such officers and employees are protected against assault, kidnap, murder, attempt to kidnap or murder, and threat to assault, kidnap, or murder with intent to impede, intimidate, or retaliate against such an officer or employee, Title 18, USC, Section 115 (a)(1)(A). The protective coverage has been extended to those Federal officers and employees whose jobs involve inspection, investigative or law enforcement responsibilities, or whose work involves a substantial degree of physical danger from the public that may not be adequately addressed by available state or local law enforcement resources.

Title 28, CFR, Part 64, Section 64.2 states "The following categories of Federal officers and employees are designated for coverage under Title 18, USC, Section 1114:

- Court; "(a) Judges and special trial judges of the U.S. Tax
- Commission; "(b) Commissioners and employees of the U.S. Parole
- the Community Relations Service of the Department of Justice; "(c) Attorneys of the Department of Justice;
- Prisons; "(d) Resettlement specialists and conciliators of
- Attorney's Office; and employees of the U.S. Attorney's Office "(e) Officers and employees of the Bureau of
- assigned to perform debt collection functions; "(f) Criminal investigators employed by the U.S.
- bankruptcy analysts and other officers and employees of the U.S. "(g) U.S. Trustees and Assistant U.S. Trustees;
- Trustee System who have contact with creditors and debtors, perform audit functions, or perform other investigative or enforcement
- functions in administering the bankruptcy laws; "(h) Attorneys and employees assigned to perform or
- to assist in performing investigative, inspection or audit functions of the Officer of the Inspector General of an "establishment" or a
- "designated Federal entity" as those terms are defined by Sections 11 and 8E, respectively, of the Inspector General Act of 1978, as
- amended, Title 5, USC, app.3, Sections 11 and 8E, and of the Offices of Inspector General of the U.S. Government Printing Office, the Merit
- Systems Protection Board, and the Selective Service System. "(i) Employees of the Department of Agriculture at
- the State, District or County level assigned to perform loan making,

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loan servicing or loan collecting functions;

"(j) Officers and employees of the Bureau of Alcohol, Tobacco, and Firearms assigned to perform or to assist in performing investigative, inspection or law enforcement functions;

"(k) Federal air marshals of the Federal Aviation Administration;

"(l) Employees of the Bureau of Census employed in field work conducting censuses and surveys;

"(m) Employees and members of the U.S. Military services and employees of the Department of Defense who:

"1. are military police officers,

"2. have been assigned to guard and protect property of the United States, or persons under the administration and control of a U.S. military service or the Department of Defense, or

"3. have otherwise been assigned to perform investigative, correction or other law enforcement functions;

"(n) The Director, Deputy Director for Supply Reduction, Deputy Director for Demand Reduction, Associate Director for State and Local Affairs, and Chief of Staff of the Office of National Drug Control Policy;

"(o) Officers and employees of the Department of Energy authorized to carry firearms in the performance of investigative, inspection, protective or law enforcement functions;

"(p) Officers and employees of the U.S. Environmental Protection Agency assigned to perform or to assist in performing investigative, inspection or law enforcement functions;

"(q) Biologists and technicians of the U.S. Fish and Wildlife Service who are participating in sea lamprey control operations;

"(r) Uniformed and nonuniformed special police of the General Services Administration; and officers and employees of the General Services Administration assigned to inspect property in the process of its acquisition by or on behalf of the U.S. Government;

"(s) Special Agents of the Security Office of the U.S. Information Agency;

"(t) Employees of the regional, subregional and resident offices of the National Labor Relations Board assigned to perform investigative and hearing functions or to supervise the performance of such functions; and auditors and Security Specialists of the Division of Administration of the National Labor Relations Board;

"(u) Officers and employees of the U.S. Nuclear Regulatory Commission:

"1. assigned to perform or to assist in performing investigative, inspection or law enforcement functions or

"2. engaged in activities related to the review

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of license applications and license amendments;

"(v) Investigators employed by the U.S. Office of Personnel Management;

"(w) Attorneys, accountants, investigators and other employees of the U.S. Securities and Exchange Commission assigned to perform or to assist in performing investigative, inspection, or other law enforcement functions;

"(x) Employees of the Social Security Administration assigned to Administration field offices, hearing offices and field assessment offices;

"(y) Officers and employees of the Tennessee Valley Authority authorized by the Tennessee Valley Authority Board of Directors to carry firearms in the performance of investigative, inspection, protective or law enforcement functions;

"(z) Officers and employees of the Federal Aviation Administration, the Federal Highway Administration, the National Highway Traffic Safety Administration, the Research and Special Programs Administration and the Saint Lawrence Seaway Development Corporation of the U.S. Department of Transportation who are assigned to perform or assist in performing investigative inspection or law enforcement functions;

"(aa) Federal administrative law judges appointed pursuant to Title 5, USC, Section 3105; and

"(bb) Employees of the Office of Workers' Compensation Programs of the Department of Labor who adjudicate and administer claims under the Federal Employees Compensation Act, the Longshore and Harbor Workers' Compensation Act and its extension, or the Black Lung Benefits Act."

EFFECTIVE: 11/23/94

89-2.3 Elements

(1) That the defendant threatened, assaulted, killed or attempted to kill the Federal officer or employee.

(2) That the Federal officer or employee is protected under Title 18, USC, Section 1114.

(3) That when threatened, assaulted, killed, or the attempt to kill occurred while the protected federal officer or employee was engaged in the performance of his/her official duties or the protected federal officer or employee was threatened, assaulted,

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killed or the attempt to kill was on account of the performance of his/her official duties.

(4) Based on a 3/19/45 Supreme Court Decision, UNITED STATES V. FEOLA, it is not necessary to allege and prove under Title 18, USC, Section 111, that the subject knew the victim was a federal officer or employee at the time of the assault. The Supreme Court held that it need only be established that the subject had the specific intent to commit the assault. However, as a matter of investigative and prosecutive policy, such knowledge, if present, should always be obtained. Prior to this Supreme Court decision, the various U.S. Circuit Courts of Appeals were divided as to whether or not the above knowledge on the part of the subject was an essential element.

(5) In regard to the federal Conspiracy Statute, Title 18, USC, Section 371, the above Supreme Court decision also held that it is not necessary to allege and prove that the subjects knew the victim they conspired to assault was a federal officer or employee.

(6) While the above Supreme Court decision dealt only with assaults of federal officers and employees in connection with Title 18, USC, Section 111, the Department of Justice (DOJ) is of the opinion that this decision would also apply to killings of federal officers and employees covered under Title 18, USC, Section 1114, and conspiracies to kill these individuals.

(7) Title 18, USC, Section 111, does not define the term assault. The DOJ has advised that in the absence of this statutory definition, the courts have followed the following common law definition: An attempt with force or violence to do a corporal injury to another consisting of an act which may cause corporal injury, accompanied by circumstances which denote at the time an intention coupled with the present ability of using actual violence against the person. |(See MIOG, Part I, 89-3.5(3), 175-4(5).)|

(8) The element of force is required under the provisions of Title 18, USC, Section 111, since it states in part, "Whoever forcibly assaults," In many instances the use of force by the subject will be clearly present and will not present a legal issue. It should be noted that mere verbal threats alone do not constitute force; however, a threat of force uttered with the apparent present ability to execute it, such as the subject displaying a weapon or making a threatening gesture which places the victim in fear of bodily harm, legally constitutes force and a violation of the above statute.

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EFFECTIVE: 11/23/94

89-2.4 Method for Determining if a Federal Officer or Employee is Protected Under the Assaulting a Federal Officer (AFO) and Killing a Federal Officer (KFO) Statutes

(1) Upon receipt of a complaint, immediately review Title 18, USC, Section 1114, to determine if the reported victim is specifically listed and, therefore, protected.

(2) If, after the above review, a question exists as to whether or not the reported victim is protected, promptly contact an appropriate Assistant U.S. Attorney (AUSA) for a legal opinion.

(3) If the AUSA cannot resolve the issue, telephonically contact the Violent Crimes/Fugitive Unit, Violent Crimes and Major Offenders Section, Criminal Investigative Division, FBIHQ, for resolution.

EFFECTIVE: 11/23/94

89-2.5 Renaming of Agencies Covered Under Title 18, U.S. Code, Section 1114

(1) Title 18, USC, Section 1114, identifies the agencies, officers, and employees who are covered under the AFO and KFO Statutes.

(2) Occasionally, an agency identified and protected under Section 1114 will undergo an executive reorganization and be renamed. An example is the Bureau of Narcotics and Dangerous Drugs which became the Drug Enforcement Administration.

(3) Based on court interpretations of Title 5, USC, Section 907(a), dealing with executive reorganizations, it has been held that a successor agency is afforded the same degree of protection under Section 1114 as the agency which it replaces. Section 907(a) continues, in effect, those laws existing prior to the reorganization of an agency. Therefore, the FBI should investigate AFO and KFO

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violations involving the successor agency.

EFFECTIVE: 02/16/89

89-2.6 Distinction Between "Engaged In" Versus "On Account Of"
Performance of Official Duties

(1) The distinction between a protected Government officer who is assaulted, killed or an attempt to kill occurs while "engaged in the performance of his/her official duties" and "on account of the performance of his/her official duties" is as follows:

(a) If a Special Agent is assaulted by a bank robbery fugitive while apprehending him/her, the assault occurred while the Agent was "engaged in the performance of his/her official duties."

(b) If, after being released from prison, the bank robbery subject assaults the above Agent, while either on or off duty, because the Agent had previously arrested him/her, the assault occurred "on account of the performance of his/her official duties."

(2) The above latter distinction is an important factor to be considered if a protected Government officer or employee is assaulted, killed or an attempt to kill occurs while either on or off duty. Consideration should be given to the possibility that the victim was attacked because of past performances of official duties. In such situations, an investigation may be instituted to determine if the attack was so motivated, thus making it a violation of either the AFO or KFO Statutes.

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89-2.7 Comments and Clarification Regarding Threats to Commit an
Assaulting a Federal Officer or Killing a Federal Officer
Violation (See MIOG, Part I, 89-2.10(7), 89-2.15(4).)

(1) Threats to assault or kill a protected federal officer or employee constitute a federal violation under Title 18, USC, Section 115(a)(1)(B). A requisite element in providing these crimes is "intent." These crimes must be committed with intent to impede, intimidate, interfere with, or retaliate against United States officials, United States judges, federal law enforcement officers, or officers whose killing would be a crime under Title 18, USC, Section 1114, while those individuals are engaged in the performance of their official duties, or on account of the performance of their official duties.

(2) It should be noted that if captioned threats do not constitute an actual AFO violation, they must be further analyzed as follows to determine if they constitute some other federal or local violation upon which investigative or referral action should be taken:

(a) If captioned threats are conveyed by the U.S. mail or interstate telephone call, FBI jurisdiction under the Federal Extortion Statute exists. See Part I, Section 9 of this manual entitled "Extortion" for complete details.

(b) If the threats involve two or more subjects, a violation under the federal Conspiracy Statute, Title 18, USC, Section 371, or the Conspiracy to Impede or Injure an Officer Statute, Title 18, USC, Section 372, may exist. See 89-4 for complete details.

(c) Captioned threats, under the proper circumstances, could constitute an Obstruction of Justice violation. See Part I, Section 72 of this manual entitled "Obstruction of Justice" for complete details.

(d) Captioned threats, if made by telephone call within the District of Columbia or in interstate commerce, may constitute a violation of the Interstate Obscene or Harassing Telephone Calls Statute, Title 47, USC, Section 223. See Part I, Section 178 of this manual entitled "Interstate Obscene or Harassing Telephone Calls" for complete details.

(3) If the office of origin (00) is in doubt whether captioned threats constitute a federal violation under the FBI's jurisdiction, the fact situation should be promptly presented to an appropriate AUSA for a legal opinion regarding this issue and whether

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an investigation or a "preliminary inquiry" should be conducted in accordance with the current Attorney General's Guidelines governing such procedures.

(4) In the absence of FBI jurisdiction, if it is determined that a federal violation under the investigative jurisdiction of another federal agency exists, such as blackmail which is handled by Postal Inspectors, the case should be referred to the appropriate agency for investigation.

(5) In the absence of a federal violation, instant threats should be referred to local authorities to determine if they constitute an offense which will be investigated by them.

(6) Any presentation to an AUSA for a legal opinion or referral to another federal agency or local authority should be set forth in the notification communication to FBIHQ. See 89-2.10 for complete details.

(7) The OO must immediately notify the victim and any agency having protective responsibility for the victim. In cases involving threats against members of the Federal Judiciary, the Chief Judge of the Judicial District also should be notified of the threat. Notification should include whether the FBI or another agency is investigating the threat. All notifications should be set forth in the initial teletype to FBIHQ.

(8) A confirmation letter to the victim must be sent within five working days after the FBI is made aware of the threat. A copy of the confirmation letter must be directed to any agency having protective responsibility for the victim and, if appropriate, to the Chief Judge of the Judicial District.

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89-2.8 Threat Assessments

(1) In cases involving AFO or KFO threats received by a victim, the FBI may be requested by the agency responsible for protecting the victim for a "threat assessment" of the threats received.

(2) Based on past experience, the above situation will most likely occur when a Federal judge has received an AFO or KFO threat and the local U.S. Marshals Service (USMS) Office is providing the victims with protection. The USMS Office may request the local FBI Office or FBIHQ, through USMS Headquarters, Washington, D.C., for a "threat assessment" to assist them in determining if the protection detail should be continued.

(3) It must be clearly understood that the FBI does not provide "threat assessments" per se. The FBI will not, under any circumstances, render an opinion as to whether the protection should be continued or terminated.

(4) It is necessary, however, when a field office receives such a legitimate request, that it disseminate all known facts regarding the AFO or KFO threats and the results of any pertinent investigation. This dissemination will enable the agency providing the protection to formulate its own "threat assessment" and opinion whether the protection should be continued or terminated. If the threat was developed through an FBI informant, his/her identity must be protected; however, a statement regarding his/her reliability should be provided. In threats developed from other sources known to the FBI, dissemination should include a statement as to their reliability as far as can be determined.

(5) In order to prevent a misinterpretation of the facts, the above dissemination must be made by letterhead memorandum (LHM). In addition, FBIHQ must be promptly notified of the request and the local dissemination by submission of a cover airtel to FBIHQ enclosing four (4) copies of the disseminated LHM.

(6) Requests or "threat assessments" occasionally originate on a headquarters level. In such instances, FBIHQ will promptly notify the appropriate office and request an LHM setting forth details of the threat and the results of any investigation conducted. The information disseminated to the requesting agency will enable it to formulate its own "threat assessment."

(7) Field offices should deal only with local

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representatives of agencies requesting information in connection with threat assessments. Inquiries from the headquarters of those agencies should be referred to FBIHQ.

EFFECTIVE: 02/16/89

89-2.9 FBI Investigative Jurisdiction

(1) The AFO and KFO statutes (Title 18, USC, Sections 111, 115, 1111, 1112, 1114, 1117 and 2231) do not specifically designate the FBI as the responsible investigative agency. However, the DOJ has historically ruled that the FBI has investigative jurisdiction over all federal criminal statutes when no agency is specifically designated to conduct the investigation.

(2) Following passage of the original AFO and KFO Statutes on May 18, 1934, and in accord with the above DOJ ruling, the FBI has investigated, and continues to investigate, all assaults and killings of and attempts to kill federal officers and employees protected under Title 18, USC, Section 1114, with the following exceptions:

(a) Pursuant to a 10/2/56 agreement, the Department of the Treasury has investigative jurisdiction over assaults and killings of and attempts to kill its personnel. See 89-2.13 for complete details.

(b) Pursuant to a 3/5/75 agreement, the Postal Inspectors have investigative jurisdiction over assaults and killings of and attempts to kill postal employees under certain designated conditions. See 89-2.14 for complete details.

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89-2.10 Notification to FBIHQ in Killing a Federal Officer and
Assaulting a Federal Officer Cases (See MIOG, Part I,
89-2.7(6), 89-2.11(10).)

(1) FBIHQ should be promptly notified of all new KFO cases by telephone and confirmed by immediate teletype. In addition, FBIHQ should be advised of all subsequent major investigative developments by summary teletype. The teletype reporting a subject's apprehension should include a statement as to whether or not the subject admitted the violation.

(2) In all AFO cases, depending on the urgency of the situation, FBIHQ should be promptly notified by telephone or teletype. Telephone notification to FBIHQ must be confirmed by immediate teletype. In addition, FBIHQ should be advised of all subsequent major investigative developments by summary teletype.

(3) In cases involving a threat to commit an AFO or KFO violation, depending on the urgency of this situation, FBIHQ should be notified by telephone, teletype or airtel. Telephone notification to FBIHQ must be promptly confirmed by teletype. If such cases involve FBI personnel, United States Attorneys or Assistant United States Attorneys as potential victims, notification should be made by telephone or teletype. In cases involving members of the Federal Judiciary, including U.S. Magistrates, refer to 89-2.10(4).

(4) During regular working hours, FBIHQ, Criminal Investigative Division, Violent Crimes/Fugitive Unit, must be immediately notified by telephone of all reports of threats to commit an AFO or KFO violation against any member of the Federal Judiciary, including U.S. Magistrates. If report of a threat occurs outside of regular working hours, telephone the FBIHQ Duty Agent. This telephonic notification should be followed by an "Immediate" teletype to FBIHQ. (See (3) & MIOG, Part I, 89-2.15(3).)

(5) In any AFO or KFO investigation, FBIHQ must be advised by airtel of its closing. This airtel should state the basis for closing. The airtel should also indicate the victim, as well as any agency having protective responsibility for the victim and any Chief Federal Judge (if victim was a member of the Federal Judiciary), was notified that the investigation has been closed.

(6) In regard to AFO or KFO cases involving FBI personnel and threatened or actual AFO or KFO cases involving federal judges, USAs and AUSAs, see 89-2.15 for further details.

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(7) In cases involving a threat to commit an AFO or KFO violation, the teletype or airtel notification to FBIHQ must set forth the complete details of the threat and its means of conveyance. See 89-2.7 for further requirements.

EFFECTIVE: 11/23/94

89-2.11 Investigative Procedures

(1) In KFO violations, signed statements, if possible, should be obtained from all eyewitnesses to the offense and other witnesses who provide any positive information concerning the case. Interviews of individuals who were in the immediate vicinity of the offense but claim not to have seen or heard anything should be recorded in an FD-302 in the event they are later contacted by defense counsel for opposing testimony.

(2) In KFO violations, it is essential to establish that the cause of death occurred by reason of the subject's actions. An autopsy must be performed by a physician who will testify as to the cause of death. Copies of the autopsy report, along with the interview of the performing physician, must be included in the prosecutive report.

(3) In AFO and KFO violations, every effort must be made to recover any weapon used for examination purposes. In addition, the weapon should be traced to establish it was in the subject's possession at the time of the offense.

(4) In AFO and KFO violations, evidence of a prior crime committed by the subject, which may have been the basis for the assault such as his/her attempting to avoid apprehension, may be introduced as evidence to establish a motive for having committed the AFO or KFO violation.

(5) In AFO and KFO violations, a thorough past history of the subject should be developed as this information may be used as rebuttal evidence against him/her during his/her trial.

(6) In AFO cases, the victim should be examined by a physician in order to establish and document the extent of injuries. A copy of the medical report, along with the interview of the examining physician, should be included in the prosecutive report.

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(7) If AFO or KFO threats have been received by the victim and investigation has been or will be instituted by the FBI under the policy set forth in 89-2.7. [REDACTED]

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(8) [REDACTED]

(9) [Deleted]

(10) When FBI personnel are victims in actual or threatened AFO or KFO cases, FBIHQ should be notified as set forth in 89-2.10.

(11) AFO and KFO cases involving FBI personnel must receive immediate and aggressive investigation. When the subject is identified, the case should be promptly presented to the USA's Office in an effort to obtain federal process. If prosecution is declined, FBIHQ should be advised by teletype setting forth the complete details. If appropriate, FBIHQ will discuss the case with the DOJ for a final determination. It is noted that an absence of actual physical injury should not bar federal prosecution.

(12) In the event an AFO or KFO matter arises from a substantive investigation, a separate AFO or KFO case will be opened. A copy of the opening communication should be directed to the substantive unit at FBIHQ.

EFFECTIVE: 03/21/95

| 89-2.12 | Deleted |

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EFFECTIVE: 11/23/94

| 89-2.12.1 | Deleted |

EFFECTIVE: 11/23/94

89-2.13 Department of the Treasury Personnel

(1) For purposes of this section, the Department of the Treasury is comprised of the United States Secret Service (USSS); Internal Revenue Service; United States Customs Service; and the Bureau of Alcohol, Tobacco, and Firearms.

(2) When the AFO and KFO Statutes were initially enacted into law, the FBI investigated those offenses involving Department of the Treasury officers and employees.

(3) Based on a subsequent desire of the Department of the Treasury to investigate such offenses involving its personnel, a jurisdictional agreement was reached between the Department of the Treasury, FBI, and DOJ.

(4) On 10/2/56, the Attorney General (AG) issued a memorandum ruling that assaults and killings of Department of the Treasury personnel were to be investigated by the Department of the Treasury rather than the FBI. This memorandum also stated that if any case develops wherein the absence of an FBI investigation of it is materially interfering with law enforcement, the AG should be advised.

(5) A Department of the Treasury agency may request an FBI field office to investigate an AFO or KFO matter as an exception to the AG's 10/2/56 ruling. The headquarters of the requesting agency should forward such requests to FBIHQ by the most practical, expeditious means so that FBI investigation, if approved, is not delayed. The field office receiving a request of this type should promptly furnish pertinent details to the Violent Crimes Unit, Criminal Investigative Division, FBIHQ, so appropriate Bureau officials may be informed of the incident and the request.

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EFFECTIVE: 02/16/89

89-2.14 U.S. Postal Service (USPS) Employees

(1) Title 18, USC, Sections 111 and 1114, provide protection to officers and employees of the USPS from assaults, killings and attempts to kill.

(2) On 3/5/74, DOJ issued the following policy directive regarding AFO and KFO matters involving USPS employees:

"Unless otherwise directed by the Department, investigation of assaults on and homicides of personnel of the USPS is for the FBI if incidental to another violation under the primary investigative jurisdiction of the FBI or if the attack is by a nonemployee against a Postal Inspector and for the USPS in all other instances."

(3) For purposes of clarification, based on the above, current FBI and USPS jurisdiction is as follows:

(a) The FBI will investigate assaults and killings of and attempts to kill Postal Inspectors by nonpostal employees.

(b) The USPS will investigate assaults and killings of and attempts to kill Postal Inspectors by postal employees.

(c) The USPS will investigate all other assaults, killings of and attempts to kill USPS officers and employees except in cases where the attack is incidental to another violation under the primary investigative jurisdiction of the FBI or if otherwise directed by DOJ.

(4) In applying the above guidelines, the term "employee" includes all individuals employed by the USPS, regardless of title, other than persons who provide services for the USPS on a fee, contract, job, or piecework basis.

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89-2.15 Assaulting, Killing, Attempting to Kill, or Threats Made
 Against Federal Judges, United States Attorneys and
 Assistant United States Attorneys (See MIOG, Part I,
 89-2.10(6).)

(1) It should be noted that while Title 18, USC, Section 1114, lists "any judge of the United States" as being protected from assaults, killings and attempts to kill, U.S. Supreme Court Justices are actually protected under the Congressional, Cabinet, and Supreme Court Assassination, Kidnaping, and Assault Statute, Title 18, USC, Section 351. See 89-3 for complete details. As a consequence, assassinations, kidnapings, attempts to kill, and assaults of U.S. Supreme Court Justices are investigated by the FBI under Section 351, and assaults and killings of or attempts to kill all other federal judges are investigated by the FBI under Sections 111 and 1114, respectively.

(2) Although there is no direct case law in point, DOJ has opined that District of Columbia Superior Court Judges and Judges of Territorial Courts of the Virgin Islands fall within the "any judge of the United States" provision of Section 1114. DOJ, therefore, recommends that an AFO or KFO investigation may be instituted by the FBI if these judges are assaulted, killed or an attempt to kill occurs while engaged in or on account of the performance of their official duties. However, DOJ is also of the opinion that if investigation is instituted by the FBI, prosecution in both instances should be handled by local authorities, who would also have jurisdiction under their laws, unless compelling reasons exist for federal prosecution under Title 18, USC, Sections 111 or 1114.

(3) In regard to actual assaults and killings of or attempts to kill captioned individuals within the elements of Title 18, USC, Sections 111 and 1114, a violation is clearly present and an investigation should be immediately instituted. FBIHQ should be promptly notified of any such violations by telephone and/or teletype, and the notification teletype to FBIHQ should set forth the investigation already conducted and specific leads reflecting the investigation to be conducted. (See 89-2.10(4) for procedures concerning members of the Federal Judiciary.) In addition, FBIHQ should also be advised of all subsequent major investigative developments by a summary teletype.

(4) In regard to threats to assault or kill captioned individuals, Title 18, USC, Section 115 (a)(1)(B) makes it a federal crime to threaten to assault, kidnap, or murder United States officials (whose killing would be a crime under Title 18, USC, Section

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1114) and United States judges. A United States judge is defined as "...any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate...." Title 18, USC, Section 1114 lists both U.S. Attorneys and Assistant U.S. Attorneys as protected officers or employees. Therefore, threats against United States judges, U.S. Attorneys, and Assistant U.S. Attorneys are investigated by the FBI under Title 18, USC, Section 115. See 89-2.7 for instructions regarding proper procedures.

(5) Although AFO and KFO violations involving captioned individuals fall within the FBI's investigative jurisdiction, the FBI does not have legal authority to provide physical protection for those individuals to prevent threatened assaults, killings and attempts to kill. The security and physical protection of captioned individuals are the statutory responsibility of the USMS which is vested under Title 28, USC, Section 569.

(6) Based on the above protective responsibilities of the USMS, an agreement between FBIHQ and the USMS Headquarters was established wherein FBIHQ agreed to promptly notify the USMS both locally and on a headquarters level whenever a threat to assault or kill captioned individuals is received by the FBI, or when such individuals are actually assaulted or killed.

(7) When an investigation is instituted involving one of captioned individuals as a victim or potential victim, close liaison should be established locally with the USMS office responsible for his/her physical protection.

(8) Dissemination of pertinent information to USSS on a local and headquarters level must be made by the FBI whenever an individual threatens, assaults, kills or attempts to kill captioned individuals. See 89-2.19 for additional information.

(9) In conjunction with (6) and (8) above, the office receiving instant threats must promptly notify the nearest office of the USSS and the USMS office covering the victim's location. The notification teletype to FBIHQ should specifically set forth the details of the notification made locally by the FBI and the USMS and the USSS.

(10) Based on an agreement between FBIHQ and the DOJ, FBIHQ has agreed to promptly notify the Deputy Assistant Attorney General, Criminal Division, and the Assistant Director for Legal Services, Executive Office for United States Attorneys, DOJ, Washington, D.C., whenever a threat to assault, kill or attempt to

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kill a USA or AUSA is received by the FBI, or when said individuals are actually assaulted or killed. FBIHQ will handle dissemination of information to the above DOJ officials and the USSS and USMS Headquarters.

EFFECTIVE: 11/23/94

89-2.16 Assaulting, Killing, or Attempting to Kill a Federal
Officer Cases Involving U.S. Bureau of Prisons (BOP)
Personnel

(1) Based on a 10/30/52 request by the BOP Headquarters, Washington, D.C., FBIHQ has agreed to disseminate on a headquarters level a copy of FBI reports prepared in AFO and KFO cases involving BOP personnel.

(2) Prior to 6/9/80, the FBI conducted an investigation of all AFO and KFO cases involving BOP personnel.

(3) Based on a February, 1980, Office of Planning and Evaluation field survey of AFO cases in which it was determined that USAs throughout the field were routinely declining prosecution of minor and unaggravated assaults of BOP personnel by inmates in favor of the subject being administratively handled by BOP authorities, the following investigative policy was adopted by the FBI on 6/9/80:

(a) Prior to conducting an investigation of alleged minor and unaggravated assaults of BOP personnel by inmates, a preliminary incident report should be obtained from prison authorities and promptly presented to the USA to determine if Federal prosecution is warranted or if the incident should be handled by administrative procedures available to BOP authorities.

(b) The OO should thereafter promptly, orally advise the local BOP authorities of the USA's opinion regarding prosecution of minor and unaggravated assaults. If prosecution is declined, the above oral dissemination should be confirmed by providing BOP authorities locally with a copy of the letter to the USA confirming his/her declination. BOP authorities may then consider proceeding administratively against the inmate. If an investigation is required or prosecution is authorized by the USA, the above oral notification and subsequent investigation by the FBI at the BOP facility will serve as notice to BOP authorities to refrain from taking administrative

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sanctions against the inmate.

(c) In order for FBIHQ to advise the BOP Headquarters, Washington, D.C., of declination cases in which a prosecutive report is not prepared, the OO should submit to FBIHQ, by cover airtel, three copies of the letter to the USA confirming his/her declination. The cover airtel should set forth a request for FBIHQ to disseminate a copy of the letter to BOP Headquarters, Washington, D.C.

(d) If investigation is instituted and a prosecutive report is prepared, two copies of the report should be submitted to FBIHQ, with one copy designated for BOP Headquarters. Do not disseminate a copy of the prosecutive report locally to the BOP facility involved. The facility should be advised of the final outcome of the investigation by letter or LHM. This communication should merely set forth the prosecutive results and not contain any information which would identify witnesses, sources, or investigative techniques which could be possibly compromised.

EFFECTIVE: 12/19/86

89-2.17 Any Security Officer of the Department of State or the Foreign Service

(1) Title 18, USC, Section 1114, was amended on 8/27/64 to include any security officer of the Department of State or Foreign Service. The intention of this amendment was to extend protection to any of the security officers engaged in protective activities under Title 22, USC, Section 2666.

(2) Section 2666 defines the above security officers as individuals designated by the Secretary of State and authorized to carry firearms for the purpose of protecting heads of foreign states, official representatives of foreign governments, and other distinguished visitors to the United States, the Secretary of State, the Deputy Secretary of State official representatives of the U.S. Government, and members of the immediate families of any such persons, both in the United States and abroad.

EFFECTIVE: 12/19/86

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89-2.18 Nuclear Regulatory Commission (NRC) Inspectors

(1) On 6/30/80, Section 235 of the Atomic Energy Act of 1954 was amended to extend protection to captioned individuals who are assaulted or killed while engaged in the performance of such inspection duties, or on account of the performance of such duties.

(2) Based on an FBI/DOJ management decision, on 8/16/82, Section 117 of this manual entitled "Atomic Energy Act of 1954" was revised to transfer these violations to the 117 classification as an Atomic Energy Act violation.

(3) Investigations involving NRC Inspectors as victims initiated after 8/16/82, are to be handled as set forth in (2) above.

EFFECTIVE: 12/19/86

89-2.19 Dissemination of Information to United States Secret Service in Assaulting a Federal Officer and Killing a Federal Officer Cases

(1) Pursuant to a 2/3/65 agreement between the Bureau and the USSS, the FBI is obligated to disseminate certain types of information developed during AFO and KFO investigations to the USSS, on both a local and headquarters level, to assist the USSS in its statutory protective functions.

(2) The notification teletype to FBIHQ should include the complete fact situation, the identity of the USSS employee notified, the time and date of notification, and the identity of the FBI employee who made the dissemination. FBIHQ will handle dissemination to USSS Headquarters.

(3) In regard to AFO and KFO cases, see Part I, 175-14(2) of this manual entitled "FBI/USSS Agreement Concerning Protective Responsibilities" and Part I, 175-14(3) entitled "USSS Protectees in a Travel Status" for the types of information to be disseminated to the USSS.

EFFECTIVE: 12/19/86

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89-2.20 Department of Justice Prosecutive Policy in Assaulting a
Federal Officer Cases

The USA's Manual states, in essence, that the focus of the DOJ's prosecutive policy is on Federal officers and employees who have law enforcement duties which regularly expose them to the public, and on staff members of Federal correctional institutions. This protection from assaults and other forms of forcible resistance, enables such persons to perform their required functions effectively, and violent acts against them should be prosecuted vigorously. By contrast, offenses against other types of Federal employees should be referred to a local prosecutor unless the offense is particularly aggravated or there are other unusual circumstances present justifying Federal action.

EFFECTIVE: 12/19/86

89-2.21 Character

- (AFO)
- (1) Assaulting or Attempting to Kill a Federal Officer
 - (2) Killing a Federal Officer (KFO)

EFFECTIVE: 12/19/86

| 89-2.22 Subclassification

See MAOP, Part II, 3-1.1, "FBI Classifications and
| Subdivided Classifications."

EFFECTIVE: 10/18/95

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89-2.23 Venue

Venue will be in the judicial district where the assault, killing or attempt to kill occurred. Title 18, USC, Section 3236, provides that the crime of murder is committed at the place where the injury was inflicted, the poison administered, or other means employed, which caused the death of the victim, without regard to the place where the death occurred.

EFFECTIVE: 12/19/86

89-2.24 Office of Origin

In AFO or KFO violations, the OO shall be the office in whose territory the assault, killing or attempt to kill occurred.

EFFECTIVE: 12/19/86

89-2.25 Copies of Prosecutive Reports to FBIHQ

Two copies in both AFO and KFO cases.

EFFECTIVE: 12/19/86

89-3 CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION,
KIDNAPING, AND ASSAULT (CCSCAKA)

EFFECTIVE: 12/19/86

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89-3.1 Background

(1) Prior to 1/2/71, there were no specific Federal statutes covering the killing, kidnaping, or assaulting of a Member of Congress or a Member-of-Congress-elect, or attempting or conspiring to kill or kidnap such persons. Federal prosecution of the above crimes had to be prosecuted under one of the general Federal criminal statutes, if applicable, or referred to local authorities for prosecution.

(2) On 1/2/71, the Omnibus Crime Control Act of 1970, Public Law 91-644, was enacted into law. Title IV of this Act provided the following protection for Members of Congress, by a new statute, Title 18, USC, Section 351, the Congressional Assassination Statute (CAS), and amended the Authorization for Interception of Wire or Oral Communications Statute, Title 18, USC, Section 2516.

(3) The CAS, Section 351, made it a Federal offense to kill, kidnap, assault, attempt to kill or kidnap, or conspire to kill or kidnap any Member of Congress or Member-of-Congress-elect. The above amendment to Section 2516 added CAS as one of the statutory offenses which could be investigated by use of properly authorized interceptions of wire or oral communications, when such interceptions may provide evidence of these violations.

(4) On 10/6/82, Title 18, USC, Sections 351 and 1751 were amended under Public Law 97-285 to provide penalties for crimes against Cabinet officers, Supreme Court Justices and Presidential staff members, and "for other purposes."

(5) The CAS was amended by the above Public Law to include the assassination, kidnaping, assault, attempts to kill or kidnap, and conspiracies to kill or kidnap the head or his/her second in command of a department in the executive branch of the Government listed under Title 5, USC, Section 101, or an individual nominated to be the head of a department during the pendency of his/her nomination; the Director of Central Intelligence or an individual nominated to be Director during the pendency of his/her nomination; and U.S. Supreme Court Justices, or individuals so nominated during the pendency of their nominations.

(6) Under the 10/6/82 CAS amendment referred to above, the Government need not prove that the subject knew that the victim was an individual protected under this statute, and it also provides for extraterritorial jurisdiction.

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(7) As a result of the 10/6/82 amendment, the CAS was retitled as the Congressional, Cabinet, and Supreme Court Assassination, Kidnaping, and Assault (CCSCAKA) Statute and is the current statute under which the FBI has investigative jurisdiction.

(8) Public Law 97-285 also amended Section 2516 to include CCSCAKA violations as one of the offenses which could be investigated by use of properly authorized interceptions of wire or oral communications, when such interceptions may provide evidence of these violations.

EFFECTIVE: 12/19/86

89-3.2 Statute and Penalties

(1) Set forth below in its entirety is the CCSCAKA Statute, Title 18, USC, Section 351.

"(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title), or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be Justice of the United States, during the pendency of such nomination, shall be punished as provided by section 1111 and 1112 of this title.

"(b) Whoever kidnaps an individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

"(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the

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conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than \$10,000, or imprisoned for not more than ten years, or both.

"(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

"(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

"(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an individual protected by this section.

"(i) There is extraterritorial jurisdiction over the conduct prohibited by this section."

(2) Section 351(a) provides for punishment as provided by Sections 1111 and 1112. Title 18, USC, Section 1111, is the Murder Statute, and Title 18, USC, Section 1112, is the Manslaughter Statute. See 89-2.2 for their text, definitions, and penalties.

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89-3.3 Elements

(1) The elements of the CCSCAKA Statute are summarized as follows:

(a) That the defendant killed or kidnaped an individual designated in Section 351(a).

(b) That the defendant assaulted an individual designated in Section 351(a).

(c) That the defendant attempted to kill or kidnap an individual designated in Section 351(a).

(d) That two or more persons conspired to kill or kidnap an individual designated in Section 351(a) and one or more of the persons did an act to effect the object of the conspiracy.

(2) In regard to (1)(c) above, the following DOJ opinion pertaining to the identical element under the Presidential and Presidential Staff Assassination, Kidnaping, and Assault (PPSAKA) Statute, Title 18, USC, Section 1751 (see Part I, 175-2 of this manual entitled "Statute and Penalties"), should be noted and followed under the CCSCAKA Statute, Title 18, USC, Section 351.

(a) Under the PPSAKA Statute, the DOJ has ruled that when an individual acting alone threatens to kidnap or kill a protected individual and commits a sufficient overt act to carry out the threat, such as purchasing a weapon, such an act constitutes an attempt to kill or kidnap within the meaning of the PPSAKA Statute. See Part I, 175-3 of this manual entitled "Elements" for complete details.

(b) The DOJ has advised FBIHQ that this opinion regarding the PPSAKA Statute also applies to the identical element within the meaning of the CCSCAKA Statute.

(3) In regard to (1)(d) above, the following DOJ opinion pertaining to the identical element under the PPSAKA Statute should be noted and followed under the CCSCAKA Statute.

(a) Under the PPSAKA Statute, the DOJ has ruled that the FBI has the authority to investigate a credible allegation of a conspiracy to kill or kidnap a protected individual even though the allegation does not include any information regarding an overt act in furtherance of the conspiracy.

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(b) The DOJ has advised FBIHQ that this opinion regarding the PPSAKA Statute also applies to the identical element within the meaning of the CCSCAKA Statute.

(4) It should be noted that Section 351(h) does not require that the subject knew the victim was an individual protected under this statute.

(5) Furthermore, the CCSCAKA Statute does not require that the criminal act occur while the protected individual is engaged in or on account of the performance of his/her official duties.

EFFECTIVE: 12/19/86

89-3.4 Definitions

(1) Member of Congress - One who is a component part of the U.S. Senate or House of Representatives. The DOJ is of the opinion that in addition to U.S. Senators and Representatives, delegates or representatives of special geographical divisions who are extended the privileges of membership, such as the Resident Commissioner from Puerto Rico, are protected under this statute. The DOJ has also advised that in their opinion, the Vice President would be classified as a Member of Congress under this statute; however, prosecutions for any violation involving him/her as a victim should be pursued under Title 18, USC, Section 1751, the PPSAKA Statute, so as to allow use of its more liberal assault and reward provisions.

(2) Member-of-Congress-Elect - One who has been certified by the usual state or local certifying official as having been elected to one of the offices described above. This term does not include a U.S. Senator appointed under the 17th Amendment and while pending entry to office.

(3) Head, Second Ranking Official, or Person Nominated to be Head - Title 5, USC, Section 101, identifies captioned individuals in part by setting forth the 13 executive departments which are referred to under Section 351(a). These Departments are State, Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education.

(4) Director of Central Intelligence (DCI) - The DCI is

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the primary advisor to the President and the National Security Council on national foreign intelligence matters. To discharge this and other assigned duties, the Director of the Central Intelligence Agency (CIA) is also the DCI and the head of the Intelligence Community. The Intelligence Community consists of the CIA, the National Security Agency, the Defense Intelligence Agency, certain offices within the Department of Defense, the Bureau of Intelligence and Research of the Department of State, the intelligence elements of the military services, the FBI, and the Departments of Treasury and Energy.

(5) Posse Comitatus - The common law definition is individuals who may be summoned by the sheriff to assist in preserving the public peace or in executing a legal precept that is forcibly opposed. Title 18, USC, Section 1385, which is commonly referred to as the Posse Comitatus Statute, prohibits the use of the military as a posse comitatus or otherwise to execute the laws unless expressly authorized by the Constitution or Act of Congress. Section 351(g) specifically removes this prohibition.

(6) Extraterritorial Jurisdiction - This term describes the legal authority to cause an investigation to be conducted and subsequently prosecute a subject in the United States for a violation of Federal law which was committed by him/her outside the territorial jurisdiction of the United States. Section 351(i) specifically grants extraterritorial jurisdiction for CCSCAKA violations. As a practical matter, these situations will present immense investigative difficulties and may require extradition of the subject to the United States. The DOJ has elected not to furnish investigative and prosecutive guidelines in this area. Each case will be considered individually upon receipt of the facts and the results of a contract with appropriate foreign authorities regarding what action and assistance will be provided to the United States.

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89-3.5 Comments and Clarification Regarding the Congressional,
Cabinet and Supreme Court Assassination, Kidnaping, and
Assault Statute

(1) This statute covers assassinating, kidnaping, assaulting, attempts to kill or kidnap, and conspiracies to kill or kidnap. It does not include mere threats made by a subject against those individuals protected under Section 351(a) unless the threat is to kill or kidnap and the individual who made the threat commits a sufficient overt act in furtherance of carrying it out. See 89-3.3 and 89-3.6 for further details.

(2) The term "kidnap" as used in this statute, merely means "carrying away" the victim, and interstate transportation is not required. In addition, investigation can be instituted immediately since the "24 hour presumptive rule" utilized in the Federal Kidnaping Statute does not apply under Section 351(b).

(3) Section 351(e) does not define the term assault. See 89-2.3 for the definition of assault under the AFO Statute. This definition is also utilized under the CCSCAKA Statute.

(4) Section 351(e) divides assaults into two categories: those that result in personal injury and all others. The personal injury suffered must occur to individuals enumerated under Section 351(a).

(5) The assault penalties under Section 351(e) make no provision for aggravated assaults in which a deadly or dangerous weapon is utilized. The penalty for assault not resulting in personal injury is a \$5,000 fine and/or not more than one year's confinement. If the assailant uses a deadly or dangerous weapon, however, consideration should be given to prosecution under Section 351(c), attempt to kill, even though the intended victim was not personally injured. The penalty for an attempt to kill under Section 351(c) is any term of years or for life.

(6) The conspiracy provisions of Section 351(d) are limited to two objectives, killing or kidnaping, and do not include the objective of assault. In a conspiracy situation involving an assault objective, prosecution must be had under Title 18, USC, Section 371, with Section 351(e), the assault provision, as the underlying charge.

(7) If Federal investigative or prosecutive jurisdiction is asserted, Section 351(f) suspends local jurisdiction for the same

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offense until Federal action is terminated. However, it does not prevent local authorities from cooperating with the FBI during our investigation. Conflicts of jurisdiction resulting from the commission of an independent local offense, such as assaulting a state official incidental to a CCSCAKA violation, are to be resolved on a case-by-case basis.

(8) The death penalty provisions of Section 351(b) and 351(d) are invalid based on a 1972 Supreme Court decision, *Furman v. Georgia*, which required strict statutory standards for its application.

EFFECTIVE: 12/19/86

89-3.6 Comments and Clarification Regarding Threats Made to
Protected Individuals (See MIOG, Part I, 89-3.8 (4) &
89-3.10 (2).)

(1) As noted in 89-3.5, mere threats made by a subject to a protected individual do not constitute a violation of the CCSCAKA Statute unless the threat is to kill or kidnap and the individual who made said threat commits a sufficient overt act in furtherance of the threat.

(2) It should be noted that if captioned threats do not constitute an attempt to kill or kidnap under the CCSCAKA Statute, they must be further analyzed to determine if they constitute some other federal or local violation upon which investigative or referral action should be taken by the FBI. Most of the individuals protected under the CCSCAKA Statute are also protected (concerning threats) under Title 18, USC, Section 115. See MIOG, Part I, 89-2.2 for complete details. For those individuals protected under the CCSCAKA statute but not covered under Title 18, USC, Section 115, additional analysis of existing statutes may be required:

(a) If the threat, coupled with an overt act, involves a conspiracy to assault rather than to kill or kidnap a protected individual, FBI jurisdiction will be under the federal Conspiracy Statute, Title 18, USC Section 371, with the assault provisions of the CCSCAKA Statute, Section 351(e), as the underlying charge.

(b) If the threat involves a conspiracy without an overt act against a protected individual, FBI jurisdiction will lie

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under the Conspiracy to Impede or Injure an Officer (CIO) Statute, Title 18, USC, Section 372. See 89-4 for complete details.

| (c) | If the threat is conveyed by the U.S. mail or interstate telephone call, FBI jurisdiction will be under the corresponding federal Extortion Statute. See Part I, Section 9 of this manual entitled "Extortion" for complete details.

| (d) | If the threat is made by telephone within the District of Columbia or in interstate commerce and does not meet the criteria of the federal Extortion Statute, Title 18 USC, Section 875, it may constitute a violation of the Interstate Obscene or Harassing Telephone Calls Statute, Title 47, USC, Section 223. See Part I, Section 178 of this manual entitled "Interstate Obscene or Harassing Telephone Calls" for complete details.

| (e) | Title 18, USC, Section 245(b)(1) entitled "Federally Protected Activities" should be considered as a possible basis for a federal violation and FBI jurisdiction. See Part I, Section 44-1.5 of this manual for complete details.

| (3) | If the OO is in doubt whether captioned threats constitute a federal violation under the FBI's jurisdiction, the fact situation should be promptly presented to an appropriate AUSA for a legal opinion regarding this issue and whether an investigation or "preliminary inquiry" should be conducted in accordance with the AG's Guidelines governing such procedures.

| (4) | In the absence of FBI jurisdiction, if it is determined that a federal violation under the investigative jurisdiction of another federal agency exists, the case should be referred to that agency.

| (5) | In the absence of a federal violation, information received regarding threats should be referred to local authorities as they may constitute a local offense.

| (6) | Details regarding presentation of threat matters to an AUSA for a legal opinion, or their referral to another federal agency or local authorities for handling, should be set forth in the notification teletype to FBIHQ.

| (7) | The office developing the information regarding captioned threats must promptly notify the intended victim if he/she is located within its territory or request the appropriate office to make the notification. The intended victim should also be advised of

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what investigative or referral action is being taken. The above dissemination or requested dissemination should be set forth in the notification teletype to FBIHQ.

EFFECTIVE: 11/23/94

89-3.7 Threat Assessments

(1) In cases involving a CCSCAKA threat received by a victim, the FBI may be requested by the agency responsible for protecting the victim for an assessment of it.

(2) See 89-2.8. The instructions set forth also apply to CCSCAKA matters and should be followed accordingly.

EFFECTIVE: 12/19/86

89-3.8 FBI Versus United States Secret Service Jurisdiction

(1) The following distinctions between the CCSCAKA Statute and the PPSAKA Statute regarding FBI and USSS jurisdiction should be noted.

(2) The FBI has investigative jurisdiction over actual violations of both the above statutes.

(3) Individuals protected under the PPSAKA Statute, other than Presidential and Vice Presidential staff members, are also USSS protectees under the Secret Service Powers Statute, Title 18, USC, Section 3056. Threats made against the above USSS protectees not constituting a PPSAKA violation should be referred to and investigated by the USSS under their Threats Against the President and Successors to the Presidency Statute, Title 18, USC, Section 871. See Part I, 175-9 of this manual entitled "FBI Versus United States Secret Service Jurisdiction" for complete details.

(4) Individuals protected under the CCSCAKA Statute are not USSS protectees. Threats made against these individuals which do not constitute a CCSCAKA or other Federal violation under the FBI's jurisdiction should not be referred to the USSS. See 89-3.6 for complete details regarding FBI policy in this area. See 89-3.13 for

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FBI dissemination requirements in this area.

EFFECTIVE: 12/19/86

89-3.9 Congressional Candidates

(1) Although Title 18, USC, Section 351(a), provides protection to Members of Congress and Members-of-Congress-elect, it does not include those individuals who are candidates for Congress. Therefore, the CCSCAKA Statute is not applicable for establishing investigative jurisdiction in assassinations, kidnaping, assaults, or threats concerning Congressional candidates.

(2) It should be noted, however, that the FBI may have investigative jurisdiction over threats and assaults involving Congressional candidates under other federal statutes if the appropriate elements are present. For complete details and instructions, refer to Part I, Section 9 entitled "Extortion"; Part I, Section 44-1.5; and Part I, Section 56 entitled "Election Laws," of this manual.

EFFECTIVE: 11/23/94

89-3.10 Notification to FBIHQ in Congressional, Cabinet, and Supreme Court Assassination, Kidnaping, and Assault Cases

(1) In all threatened or actual CCSCAKA violations, depending on the urgency of the situation, FBIHQ should be promptly notified by telephone. Telephone notification to FBIHQ must be promptly confirmed by teletype. FBIHQ should also be advised of all subsequent major investigative developments by summary teletype. The teletype reporting a subject's apprehension should include a statement as to whether or not the subject admitted the violation.

(2) In cases involving a threat to commit a CCSCAKA violation, the teletype notification to FBIHQ must set forth the complete details of the threat and its means of conveyance. See 89-3.6, 89-3.13, and 89-3.14 for further requirements.

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EFFECTIVE: 12/19/86

89-3.11 Investigative Procedures

(1) The investigative procedures to follow in threatened and actual CCSCAKA violations are similar to those utilized in threatened and actual KFO and AFO violations. Refer to 89-2.11 for details.

(2) In assassination cases under Title 18, USC, Section 351, refer to 89-3.12 as to the assistance that Armed Forces Institute of Pathology will render upon request.

(3) As noted in 89-3.1, Public Law 97-285 amended the Authorization for Interception of Wire or Oral Communications Statute, Title 18, USC, Section 2516, to include CCSCAKA violations as offenses that can be investigated by use of properly authorized interceptions of wire or oral communications.

EFFECTIVE: 12/19/86

89-3.12 Agreement Between the FBI and the Armed Forces Institute of Pathology (AFIP)

On 8/19/76, the AFIP and the FBI entered into the following self-explanatory Memorandum of Agreement in Presidential and Congressional Assassination matters:

"1. PARTIES: The parties to this agreement are the Armed Forces Institute of Pathology (AFIP) and the Federal Bureau of Investigation (FBI).

"2. PURPOSE: This agreement established procedures and assigns responsibilities for providing AFIP medical investigation expertise to the FBI upon request in the event of the traumatic or unexpected death of the President of the United States, the Vice-President, a Member of Congress, or certain other persons designated in 18 USC 1751 and 18 USC 351.

"3. AUTHORITY: The general authority for this interdepartmental support agreement is 31 USC 686; the specific authorities for the support services to be provided are 18 USC 1751(i)

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and 18 USC 351(g).

"4. RESPONSIBILITIES OF THE AFIP:

"(a) To maintain a current contingency plan for providing medical investigative support to the FBI upon request.

"(b) To designate a staff of board-certified forensic pathologists and allied science personnel adequate to fulfill the responsibilities of this agreement.

"(c) To designate a liaison officer to coordinate with the FBI in planning for and activating this agreement.

"(d) To respond to an FBI request for assistance by conducting a complete medical investigation of death (forensic autopsy) in the event of the traumatic or unexpected death of one or more of those persons specified in paragraph 2, above, such investigation to be conducted at the AFIP if at all possible.

"(e) To dispatch designated members of the AFIP staff to the scene of death to obtain information relevant to the medical investigation and to accompany the remains on return to the AFIP.

"(f) To assume custody and control of all medical records and biological substances pertinent to the medical investigation of death.

"(g) To provide the FBI with a final report of the medical investigation of death and with such progress reports as are appropriate pending the final report, with the FBI to be the sole recipient of these reports.

"(h) To advance such funds as are necessary for current operations in the event it becomes necessary to activate this agreement.

"5. RESPONSIBILITIES OF THE FBI:

"(a) To designate a liaison officer to coordinate with the AFIP in planning for and activating this agreement.

"(b) To review on an annual basis the AFIP contingency plan for providing medical investigation support to the FBI.

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"(c) To assert federal investigative jurisdiction under 18 USC, 1751(h) or 18 USC 351(g) in the event it becomes necessary to activate this agreement.

"(d) To officially request the AFIP to conduct a complete medical investigation of death (forensic autopsy) in the event of the traumatic or unexpected death of one or more of those persons named in paragraph 2, above.

"(e) To obtain release of remains to the AFIP from the custody of local authorities for medical investigation pursuant to this agreement by whatever legal means are deemed necessary and expedient.

"(f) To instruct the FBI Special Agent in Charge at the scene of death to assist the AFIP staff with local travel arrangements and to provide access to the scene of death.

"(g) To obtain special mission aircraft when deemed necessary to expedite the medical investigation of death.

"(h) To assign a Special Agent to attend the medical investigation of death to receive and retain custody of physical evidence obtained during the investigation.

"(i) To receive from the AFIP the final report of the medical investigation of death as well as any progress reports provided and to take responsibility for all further dissemination of such reports.

"(j) To reimburse the AFIP for all funds advanced for current operations in the event it becomes necessary to activate this agreement.

"(k) To advise the United States Secret Service of the existence of this agreement and the AFIP contingency plan and to effect whatever coordination is necessary with that agency.

"6. GEOGRAPHIC LIMITATION: The jurisdictional authority of the FBI is limited to the United States, its territories and possessions. This agreement is similarly limited.

"7. TERM: This agreement shall become effective when executed by the representatives of both parties. It shall be reviewed annually and shall remain in effect until revoked by official action

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of either party communicated to the other.

"8. SIGNATURES:

"(a) For the AFIP: ELGIN C. COWART, 8/19/76
CAPTAIN, MEDICAL CORPS,
U.S. NAVY

"(b) For the FBI: The Director
CLARENCE M. KELLEY, 8/10/76
Director"

EFFECTIVE: 12/19/86

89-3.13 Dissemination to United States Secret Service in
Congressional, Cabinet, and Supreme Court Assassination,
Kidnaping, and Assault Cases

(1) Pursuant to the 2/3/65 agreement between the Bureau
and the USSS, the FBI is obligated to disseminate certain types of
information developed during CCSCAKA investigations to the USSS, on
both a local and headquarters level, to assist the USSS in its
statutory protective functions.

(2) Since threatened and actual CCSCAKA violations fall
within the above agreement, dissemination should be made to USSS on
both the local and headquarters level in the following manner:

(a) The office developing the information should
promptly telephonically advise the nearest office of the USSS of the
facts.

(b) The notification teletype to FBIHQ should
include the complete fact situation, the identity of the USSS employee
notified, the time and date of notification, and the identity of the
FBI employee who made the dissemination. FBIHQ will handle
dissemination to USSS Headquarters.

(c) A dissemination copy of the above teletype
should be provided to the local USSS office which will serve as
confirmation of the previous telephonic notification to them. This
method will eliminate preparing an FD-376 and LHM since all pertinent
information and notification details will be a matter of record in the
above teletype.

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EFFECTIVE: 12/19/86

Elimination to U.S. Capitol Police (USCP) and Others
Involving Members of Congress

(1) Senate Bill S. 1976 entitled, "An Act to Define the States Capitol Grounds, to Regulate the Use thereof for Other Purposes" was passed on 12/16/81 and enacted into law on 12/19/81 under Public Law 97-143.

(2) This Act, in essence, expands the protective functions of the USCP regarding Members and officers of Congress and their immediate families and provides for the USCP to be included and treated as such under the AFO and KFO Statutes. While the USCP's protective functions have been expanded, the FBI's investigative responsibilities in regard to the AFO, KFO, CCSCA and Extortion Statutes remain unchanged. The exception of the USCP now being protected under the AFO and KFO Statutes.

(3) Section 9A(a) of this Act provides, in essence, that subject to the direction of the Capitol Police Board (CPB), the USCP is authorized to protect, in any area of the United States, any Member of Congress, as defined in Section 431 of the Act of October 3, 1976 (16 USC, Section 60-1(b)), and their immediate families if it determines such protection to be necessary on a case-by-case basis.

Section 9A(c) authorized the USCP, while in the performance of their protective duties under this Act, to make arrests without a warrant for any offense against the United States committed in their presence, or for any Federal felony, if they have reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(5) Section 9A(d) provides a penalty of not more than a \$300 fine and/or not more than one year's confinement for anyone who knowingly and willfully obstructs, resists, or intervenes with a member of the USCP performing a protective function under this Act.

(6) As stated above, this Act does not affect the FBI's jurisdiction since Section 9A(e) specifically states that nothing contained therein shall be construed to imply that the protective

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authority granted the USCP is intended to supersede any other agency involving the protection of Members and officers of Congress and their immediate families.

(7) Based on the above-expanded USCP protective duties, USCP has requested the Washington|Metropolitan|Field Office| (WMFO) to promptly advise USCP of any potential or actual CCSCAKA violations or related threats and any potential or actual Federal Extortion Statute violations or related threats involving Members of Congress and/or their immediate families which are reported to the FBI. This information will be utilized by the USCP for intelligence purposes and to provide the above individuals with any approved protection under the above Act.

(8) |WMFO| is currently disseminating such information to the USCP by existing operational liaison. In order to ensure appropriate dissemination to the USCP by |WMFO| in a timely fashion, all offices must report any receipt of such information or the initial results of any investigation by summary teletype to FBIHQ and WMFO within seven calendar days. |FBIHQ| will handle dissemination of appropriate information to USSS Headquarters.

(9) In addition to the above-required notification to the USCP by |WMFO| and USSS Headquarters by FBIHQ, when Members of Congress are involved as victims, the office developing the information should promptly notify the nearest office of the USSS. See 89-3.13 and ensure in the notification teletype to FBIHQ that the office covering the victim's home district is requested to notify his/her local office and appropriate local law enforcement agencies in the area.

EFFECTIVE: 02/16/89

89-3.15 Dissemination to the Thirteen Protected Executive Branch
 Departments

(1) Title 18, USC, Section 351(a), extends protection to the head, second ranking official, or the person nominated to be head of the Departments of State, Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education.

(2) Whenever a threatened or actual CCSCAKA violation or related threat is reported to the FBI involving the individuals set forth above, the appropriate official within victim's department and

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the nearest office of the USSS must be promptly notified by the FBI.

(3) Notification to the Department of Defense will be made by WMFO which will handle notification to all other departments.

(4) In order to ensure the required notifications are made, offices receiving or developing such information will include WMFO in their notification teletype to FBIHQ.

(5) The above teletype or a subsequent communication must include a complete physical description of any subjects developed, background data, and a photograph, if available.

(6) The notification teletype to FBIHQ must set forth the required dissemination to the nearest office of the USSS by the office developing the information and include the identity of the USSS employee notified, the time and date of notification and the identity of the FBI employee who made the dissemination. FBIHQ will handle dissemination to USSS Headquarters.

(7) A dissemination copy of the above teletype should be provided to the local USSS office which will serve as confirmation of the previous telephonic notification to them. This method will eliminate preparing an FD-376 and LHM since all pertinent information and notification details will be a matter of record in the above teletype.

EFFECTIVE: 02/16/89

89-3.16 Dissemination to Supreme Court Police Involving Supreme Court Justices

(1) Under the authority of Title 28, USC, Section 13(f), the Supreme Court has appointed a Deputy U.S. Marshal who, with the approval of the Chief Justice, has appointed and supervises individuals to serve as Supreme Court Police (SCP).

(2) In essence, the SCP serve as law enforcement officers to police the Supreme Court building, grounds, and adjacent streets; protect the Chief Justice and Associate Justices; and are authorized to bear arms and to make arrests.

(3) Based on the above protective responsibilities, WMFO should promptly advise the SCP of any potential or actual CCSCAKA

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violation or related threats involving Supreme Court Justices which are reported to the FBI. This information will be utilized by the SCP for intelligence purposes and to provide protection for the above individuals as may be required.

(4) In order to ensure appropriate dissemination to the SCP by WMFO in a timely fashion, all offices must report any receipt of such information or the initial results of any investigation by summary teletype to FBIHQ and WMFO within seven calendar days.

(5) The initial teletype or subsequent communication must include a complete physical description of any subject developed, background data, and a photograph, if available.

(6) See 89-3.13 for additional requirements pertaining to local USSS dissemination. FBIHQ will handle dissemination to USSS Headquarters.

EFFECTIVE: 02/16/89

89-3.17 Notification to Central Intelligence Agency

(1) Title 18, USC, Section 351(a), extends protection to the Director, a person nominated to be Director during the pendency of such nomination, and the Deputy Director of Central Intelligence.

(2) The Director of Central Intelligence (DCI) is also the Director of the Central Intelligence Agency (CIA). See 89-3.4(4) for complete details.

(3) Whenever a threatened or actual CCSCAKA violation or related threat is reported to the FBI involving the individuals set forth above, the appropriate office at CIA Headquarters, Langley, Virginia, must be promptly notified by WMFO.

(4) In order to ensure the required notification, offices developing such information should promptly forward it to FBIHQ and WMFO by teletype suitable for dissemination.

(5) The initial teletype or subsequent communication must include a complete physical description of any subject developed, background data, and a photograph, if available.

(6) WMFO, in addition to conducting any required

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investigation, will advise the appropriate office of CIA.

(7) See 89-3.13 for additional requirements pertaining to local USSS dissemination.

EFFECTIVE: 02/16/89

89-3.18 Department of Justice Prosecutive Policy in Congressional, Cabinet, and Supreme Court Assassination, Kidnaping and Assault Cases

(1) The USA's Manual states that supervisory responsibility for captioned violations rests with the Criminal Division, DOJ, and instructs that it be immediately notified telephonically when information is developed indicating an actual violation of the CCSCAKA Statute or when other unusual factors are involved.

(2) The USA's Manual further states that DOJ has retained authority to initiate prosecution under this statute. FBIHQ will notify the Criminal Division immediately of actual violations of this statute and provide copies of investigative reports to DOJ. OO should, similarly, promptly inform the appropriate USA and provide copies of investigative reports. The USAs have been instructed by the DOJ to review such reports so that they will be able to render advice to the Criminal Division regarding local factors and circumstances that may have a bearing on the case.

(3) The DOJ has requested to be advised if a victim requests that an investigation be terminated or investigated solely by a local law enforcement agency.

(4) Based on the above DOJ policy, the field should promptly notify the USA's Office when information is developed indicating an actual violation of the CCSCAKA Statute. The initial teletype to FBIHQ should state that the USA has been notified. If a victim requests that an investigation be terminated or investigated solely by a local law enforcement agency, the appropriate USA's Office and FBIHQ should be promptly notified. Submit details, including fact USA was informed, to FBIHQ by teletype.

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EFFECTIVE: 02/16/89

89-3.19 Character

(1) Since the CCSCAKA Statute protects four broad classes of individuals and covers seven types of crimes committed against them, the possible characters involved are numerous.

(2) Although Section 351(a) further subdivides the above four classes of individuals under elected, nominated, deputy, and second in command, for FBI character and management purposes, the classes of individuals protected will be placed into four groups as follows regardless of their status within the group.

(a) Member of Congress

(b) Executive Department Head and Director, CIA

(c) Supreme Court Justice

(d) Major Presidential or Vice Presidential
Candidate (See Part I, Section 175-8 of this manual.)

(3) The types of crimes prohibited are as follows:

(a) Assassination

(b) Kidnaping

(c) Assault

(d) Attempt to Assassinate

(e) Attempt to Kidnap

(f) Conspiracy to Assassinate

(g) Conspiracy to Kidnap

(4) In order to readily identify the character, class of protected individual, and type of prohibited crime involved, all characters under Section 351 will be designated as CCSCAKA and be further identified, in parentheses, by class of victim and type of crime involved as set forth in the following examples.

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- (a) CCSCAKA (Member of Congress - Assault)
- (b) CCSCAKA (Supreme Court Justice - Assassination)
- (c) CCSCAKA (Executive Department Head - Conspiracy to Kidnap)
- (d) CCSCAKA (Director, Central Intelligence Agency - Conspiracy to Assassinate)
- (e) CCSCAKA (Major Presidential Candidate - Attempt to Assassinate)

(5) Based on the above policy and examples, the proper character for any given CCSCAKA fact situation can be logically determined and should be set forth accordingly.

EFFECTIVE: 06/18/87

89-3.20 89 Congressional, Cabinet, and Supreme Court
Assassination, Kidnapping, and Assault Subclassifications

See MAOP, Part II, 3-1.1, "FBI Classifications and
Subdivided Classifications."

EFFECTIVE: 10/18/95

89-3.21 Case Title

(1) In addition to the subject's name and aliases or an unknown subject designation and aliases, a CCSCAKA case title should include the victim's full name, his/her job title and agency, and the initial date of the threatened or actual violation.

(2) Set forth below is an example of a CCSCAKA case title for reference purposes:

JOHN DOE;
RICHARD JONES, ATTORNEY GENERAL,
DEPARTMENT OF JUSTICE

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WASHINGTON, D.C. - VICTIM
4/25/83
CCSCAKA (EXECUTIVE DEPARTMENT
HEAD - ASSAULT)
OO: |WMFO|

EFFECTIVE: 10/16/90

89-3.22 Venue

Venue will be in the judicial district where the violation occurred. Title 18, USC, Section 3236, provides that the crime of murder is committed at the place where the injury was inflicted, the poison administered, or other means employed which caused the death of the victim without regard to the place where the death occurred. For offenses committed outside the jurisdiction of any particular state or district, see Title 18, USC, Section 3238, entitled "Offenses Not Committed in Any District."

EFFECTIVE: 10/16/90

89-3.23 Office of Origin

In CCSCAKA violations, the OO shall be the office in which territory the violation occurred. See 89-3.22 for the definition of the place where a murder occurs and in regard to offenses not committed in any district.

EFFECTIVE: 10/16/90

89-3.24 Copies of Prosecutive Reports to FBIHQ

Three copies to FBIHQ, one copy of which will be disseminated to DOJ.

EFFECTIVE: 10/16/90

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89-4 CONSPIRACY TO IMPEDE OR INJURE AN OFFICER (CIO)

EFFECTIVE: 10/16/90

| 89-4.1 | Deleted |

EFFECTIVE: 11/23/94

89-4.2 Statute and Penalties

Set forth below in its entirety is the CIO Statute, Title 18, USC, Section 372.

"If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined not more than \$5,000 or imprisoned not more than six years, or both."

EFFECTIVE: 12/19/86

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89-4.3 Elements

If two or more persons conspire to prevent by force, intimidation, or threat:

- (1) Any person from accepting or holding any United States office;
- (2) Or from discharging any duties thereof;
- (3) Or induce by like means any United States officer to leave his/her required place of duty;
- (4) Or injure him/her or his/her property on account of the performance of his/her duties or while engaged in said duties;
- (5) Or injure his/her property in order to hinder or impede him/her in the performance of his/her duties.

EFFECTIVE: 12/19/86

89-4.4 Comments and Clarification Regarding the Conspiracy to Impede or Injure an Officer Statute

- (1) Unlike the AFO, KFO and CCSCAKA Statutes, which are restricted to those individuals specifically listed, the CIO Statute provides protection to any officer of the United States.
- (2) An officer of the United States is defined as any permanent, temporary, full- or part-time appointed or elected employee of the Federal Government.
- (3) The CIO Statute deals with conspiracy, therefore, it does not apply to a subject acting alone. See 89-4.7 for further details.
- (4) The conspiracy must be directed toward one of the objectives set forth in the CIO Statute.
- (5) The CIO Statute, unlike the general Conspiracy Statute, Title 18, USC, Section 371, and the conspiracy provisions of the CCSCAKA Statute, Title 18, USC, Section 351(d), does not require an overt act in furtherance of the objective; therefore, an appropriate conspiracy by itself constitutes a prosecutable offense.

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EFFECTIVE: 12/19/86

89-4.5 FBI Investigative Jurisdiction

The CIO Statute, Title 18, USC, Section 372, does not specifically designate the FBI as the responsible investigative agency. However, on 12/14/77, the DOJ advised FBIHQ that the FBI has investigative jurisdiction over the above statute.

EFFECTIVE: 12/19/86

89-4.6 Notification to FBIHQ in Conspiracy to Impede or Injure an Officer Cases

(1) Depending on the urgency of the situation, FBIHQ shall be promptly notified by telephone and/or teletype of all CIO cases. Telephone notification to FBIHQ must be promptly confirmed by teletype. The initial teletype notification to FBIHQ should set forth the complete details of the alleged conspiracy. In addition, FBIHQ should also be advised of all subsequent major investigative developments in these cases by summary teletype. The teletype reporting a subject's apprehension should include a statement as to whether or not the subject admitted the violation.

(2) See 89-4.8 for other requirements necessary in the notification teletype to FBIHQ.

EFFECTIVE: 12/19/86

89-4.7 Investigative Procedures (See MIOG, Part I, 89-4.4 (3).)

(1) Although an overt act in furtherance of the conspiracy is not required under the CIO Statute in order to constitute a prosecutable violation, any such overt act should be documented since it will tend to establish that a conspiracy did, in fact, exist.

(2) Although Section 372 requires a prohibited conspiracy

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involving two or more subjects in order to constitute a violation, if it initially appears that only one subject is involved in the prohibited action against the Government employee, it is permissible for the FBI to institute a preliminary inquiry in order to determine if a conspiracy involving additional subjects is present. If such inquiry fails to develop the required conspiracy, in the absence of any other Federal violation under the FBI's jurisdiction, the matter should be referred to the appropriate law enforcement agency for handling.

(3) If investigation determines the subject was acting alone, Title 18, USC, Section 245(b)(1) entitled "Federally Protected Activities" may be a basis for a Federal violation and FBI jurisdiction. See Part I, Section 44-1.5 of this manual for complete details.

EFFECTIVE: 01/31/94

89-4.8 Dissemination to United States Secret Service and Other Agencies in Conspiracy to Impede or Injure an Officer Cases

(1) Although CIO violations fall within the FBI's investigative jurisdiction, based on a 2/3/65 agreement between the USSS and the FBI concerning USSS's statutory protective responsibilities, the FBI is obligated to disseminate certain types of information if developed during one of our CIO investigations to the USSS, based on the premise that it may assist them in such responsibilities.

(2) In regard to CIO cases, see Part I, 175-14(2) entitled "FBI/USSS Agreement Concerning Protective Responsibilities" and 175-14(3) entitled "USSS Protectees in a Travel Status" for the types of information to be disseminated to the USSS.

(3) Prompt dissemination of information in the above categories to USSS must be made on a local and headquarters level.

(4) Initial dissemination to USSS locally is to be made telephonically to the nearest office of the USSS by the office developing the information.

(5) The notification teletype to FBIHQ must include the

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identity of the USSS employee notified, the time and date of notification, and the identity of the FBI employee who made the dissemination.

(6) A dissemination copy of the above teletype should be provided to the local USSS office which will serve as confirmation of the previous telephone notification to them. This will eliminate preparing an FD-376 and LHM since all pertinent information and notification details will be a matter of record in the teletype.

(7) In addition, notification of the conspiracy should be promptly made to the victim and his/her Government agency where employed. The notification teletype to FBIHQ should specifically set forth that notification to the victim and his/her Government agency has or will be made.

(8) FBIHQ, upon receipt of the notification teletype, will disseminate the appropriate information to the victim's Government agency headquarters and USSS Headquarters, Washington, D.C.

EFFECTIVE: 06/18/87

89-4.9 Character - Conspiracy to Impede or Injure an Officer
(CIO)

EFFECTIVE: 06/18/87

89-4.10 89 Conspiracy to Impede or Injure an Officer
Subclassification

See MAOP, Part II, 3-1.1, "FBI Classifications and Subdivided Classifications."

EFFECTIVE: 10/18/95

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89-4.11 Venue

Venue will be in the judicial district where the violation occurred.

EFFECTIVE: 06/18/87

89-4.12 Office of Origin

In CIO violations, the OO shall be the office in which territory the violation occurred.

EFFECTIVE: 06/18/87

89-4.13 Copies of Prosecutive Reports to FBIHQ

Two.

EFFECTIVE: 06/18/87

89-5 CRIMES AGAINST FAMILY MEMBERS OF FEDERAL OFFICIALS (CAFM)
- INFLUENCING, IMPEDING OR RETALIATING AGAINST A FEDERAL
OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER (See
MIOG, Part I, 89-2.2(3), 175-1(6), 175-2(3).)|

EFFECTIVE: 11/23/94

| 89-5.1 |Deleted|

EFFECTIVE: 11/23/94

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89-5.2 Statute and Penalties

Set forth below in its entirety is the Crimes Against Family Members of Federal Officials Statute, Title 18, USC, Section 115:

"Influencing, impeding, or retaliating against a federal official by threatening or injuring a family member

"(a)(1) Whoever-

"(A) assaults, kidnaps, or murders, or attempts to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under section 1114 of this title; or

"(B) threatens to assault, kidnap, or murder a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section,

with intent to impede, intimidate, or interfere with such official, judge or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against such official, judge, or law enforcement officer on account of the performance of official duties, shall be punished as provided in subsection (b).

"(2) Whoever assaults, kidnaps, or murders, or attempts to kidnap or murder a member of the immediate family of any person who formerly served as a person designated in paragraph

(1), with intent to retaliate against such person on account of the performance of official duties during the term of such person, shall be punished as provided in subsection (b).

"(b)(1) An assault in violation of this section shall be punished as provided in section 111 of this title.

"(2) A kidnaping or attempted kidnaping in violation of this section shall be punished as provided in section 1201 of this title for the kidnaping or attempted kidnaping of a person described in section 1201(a)(5) of this title.

"(3) A murder or attempted murder in violation of this section shall be punished as provided in sections 1111 and 1113 of this title.

"(4) A threat made in violation of this section shall be

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punished by a fine of not more than \$5,000 or imprisonment for a term of not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(c) As used in this section, the term--

"(1) 'Federal law enforcement officer' means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law;

"(2) 'immediate family member' of an individual means--

"(A) his spouse, parent, brother or sister, child or person to whom he stands in loco parentis; or

"(B) any other person living in his household and related to him by blood or marriage;

"(3) 'United States judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate; and

"(4) 'United States official' means the President, President-elect, Vice President, Vice President-elect, a Member of Congress, a member-elect of Congress, a member of the executive branch who is the head of a department listed in 5 U.S.C. 101, or the Director of The Central Intelligence Agency."

EFFECTIVE: 11/23/94

89-5.3 Elements

The elements of the CAFM Statute are summarized as follows:

(1) That the defendant assaulted, kidnaped, or murdered an individual designated in Section 115(c).

(2) That the defendant(s) attempted to kidnap or murder an individual designated in Section 115(c).

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(3) That the defendant threatened to assault, kidnap or murder an individual designated in Section 115(c).

The above crimes must be committed with the intent to impede, intimidate, interfere with, or retaliate against federal officials, judges or law enforcement officers while engaged in performance of their official duties or on account of the performance of their official duties.

EFFECTIVE: 11/23/94

89-5.4 Investigative Procedures

(1) The general investigative procedures set out for KFO, AFO, CCSCAKA, CIO and Presidential and Presidential Staff Assassination, Kidnaping and Assault matters should be followed in actual or threatened CAFM violations. See this section and Part I, Section 175, of this manual for details.

(2) Investigations involving Title 18, USC, Section 115 should be handled under the substantive classification for the particular official involved. In the event a CAFM investigation is instituted solely under Section 115, classification 89-F should be utilized.

(3) When appropriate and as previously set forth in Part I, Section 89, of this manual, instructions, policies, investigative procedures, jurisdictional agreements (i.e., FBI and Department of the Treasury), notification to FBIHQ and dissemination requirements apply in fulfilling FBI investigative responsibilities under Title 18, Section 115.

(4) "Agreement of Procedures" adopted by the USSS and the FBI will apply to procedures to be followed in the event that a violation of law occurs involving a person or persons protected by the U.S. Secret Service pursuant to law and which falls within the investigative jurisdiction of the FBI. See Part I, Section 175, of this manual.

EFFECTIVE: 12/19/86

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89-5.5 Notification to FBIHQ and Dissemination Responsibilities

(1) FBIHQ should be promptly notified of all new CAFM cases involving a death or serious injury by telephone and confirmed by immediate teletype. In addition, FBIHQ should be advised of all subsequent major investigative developments by summary teletype.

(2) In all other CAFM cases, depending on the urgency of the situation, FBIHQ should be promptly notified by telephone or teletype. Telephone notification to FBIHQ must be confirmed by immediate teletype. In addition, FBIHQ should be advised of all subsequent major investigative developments by summary teletype.

(3) In CAFM cases involving a threat, FBIHQ should be notified by telephone, teletype, or airtel depending on the urgency of the situation. Telephone notification to FBIHQ must be promptly confirmed by teletype. If such cases involve the families of officials listed under sections (c)(4) of Section 115, or the families of FBI personnel, Federal judges, USAs or AUSAs as potential victims, notification to FBIHQ should be made by telephone and/or teletype.

(4) See 89-2.19, 89-3.13 and 89-4.8 of this section and Part I, Section 175, of this manual for details of Bureau responsibilities to disseminate certain types of information to USSS to assist in its protective functions.

EFFECTIVE: 06/26/91

89-5.6 Character - Crimes Against Family Members (CAFM)

EFFECTIVE: 06/26/91

| 89-5.7 Classification

For details concerning this topic, refer to Manual of Administrative Operations and Procedures (MAOP), Part II, 3-1.1 entitled "FBI Classifications and Subdivided Classifications."

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EFFECTIVE: 10/18/95

89-5.8 Case Title

(1) In addition to the full name of subject(s) and all known aliases, or an unknown subject(s) designation, a CAFM case should include the full name and relationship of the family member to the protected individual(s) designated in Section 115, the name of the protected individual, his/her job title and the initial date of the violation.

(2) EXAMPLE (Actual assault or threat):

JOHN DOE;
MARY E. SMITH, (Daughter) - VICTIM;
JOSEPH A. SMITH, SPECIAL AGENT - FBI - VICTIM;
10/1/86
AFO - CAFM;
OO: CHICAGO

(3) If the victim is a family member of a Member of Congress, Cabinet Officer, Supreme Court Justice, or Director of the CIA, the character should be shown as:

CCSCAKA - CAFM

EFFECTIVE: 06/26/91

89-5.9 Venue

Venue will be governed by the type of violation, assault, kidnaping, attempted kidnaping, murder, attempted murder, or threat to assault, kidnap or murder, as set forth in Section 115.

EFFECTIVE: 12/19/86

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|| 89-5.10 Office of Origin

Office of Origin will be established in the manner set forth in MAOP, Part II, Section 10-16.2.

EFFECTIVE: 12/19/86

|| 89-5.11 Copies of Prosecutive Reports to FBIHQ
Two.

EFFECTIVE: 12/19/86

|| 89-6 THREAT TO LIFE - DISSEMINATION OF INFORMATION (See MAOP, Part II, 9-7; MIOG, Part I, 166-4, 175-22.1, and 179-7.)

The following guidelines cover the FBI's responsibility to warn persons of threats to their life or threats that may result in serious bodily injury and policy regarding notification to other law enforcement agencies of such threats. (Extracted from Resolution 20 dated 12/16/96. See footnotes at the end of this citation.) In all instances, manner depending upon exigencies of situation, FBIHQ should be advised of details of such threats together with a notification of action taken or a recommendation as to action to be initiated UACB.

|| "III. Guidelines

|| "A. Warning to the Person.

"(1) Expeditious Warnings to Identifiable Persons.
Except as provided below in paragraph IIIA(3), when a Federal Law Enforcement Agency has information that a person who is identified or can be identified through reasonable means is subject to credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to warn that person of the nature and extent of the threat.

|| "(2) Manner, Means, and Documentation of Warning.

|| "a. The Agency may determine the means and manner of

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the warning, using the method most likely to provide direct notice to the intended victim. In some cases, this may require the assistance of a third party. The Agency must document in writing in its files the content of the warning, and when and where, and by whom it was delivered to the intended victim.

"b. An Agency may seek the assistance of another law enforcement agency to provide the warning. If this is done, the Agency must document in writing in its files the notification of the threat, and when, where, and the name of the other agency's representative to whom it was delivered, along with the other agency's agreement to provide a timely warning.

"(3) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to warn an intended victim of a threat to his/her life or of serious bodily injury in the following circumstances:

"(i) when providing the warning to the intended victim is likely to cause equal or greater physical harm to one or more persons; 1

"(ii) when the intended victim knows the nature and extent of the specific threat against him/her; or

"(iii) when the intended victim is: (a) a public official who, because of his/her official position, is provided a protective detail; (b) a participant in the Witness Security Program that is administered by the United States Marshals Service; or (c) detained or incarcerated. See paragraph IIIB(1).

"b. Whenever time and circumstances permit, an Agency's decision not to provide a warning in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. 2 In all cases, the reasons for an Agency's decision not to provide a warning must be documented in writing in the Agency's files.

"NOTE: This paragraph does not apply to the agencies directly responsible for providing the security for the individuals referred to in paragraph IIIA(3)a(iii), above, when the threat is to the referenced individual. In such cases, documentation, if any, should be created in accordance with the agency procedures.

"B. Notification to Law Enforcement Agencies With Protective or

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Custodial Jurisdiction.

"(1) Expeditious Notification. When a Federal Law Enforcement Agency has information that a person described above in paragraph IIIA(3)a(iii) is subject to any threat to his/her life or of serious bodily injury, the Agency must expeditiously notify other law enforcement agencies that have protective or custodial jurisdiction.

"(2) Means, Manner, and Documentation of Notification. The notifying Agency may determine the means and manner of the notification. When providing notification, the notifying Agency shall provide as much information as possible regarding the threat and the credibility of the threat. The notifying Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"C. Notification to Law Enforcement Agencies That Have Investigative Jurisdiction.

"(1) Expeditious Notification. Except as provided below in paragraph IIIC(4), when a Federal Law Enforcement Agency has information that a person (other than a person described above in paragraph IIIA(3)a(iii)) who is identified or can be identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to notify other law enforcement agencies that have investigative jurisdiction concerning the threat.

"(2) Threats to Occupied Structures or Conveyances. When a Federal Law Enforcement Agency has information that a structure or conveyance which can be identified through reasonable means is subject to a credible threat which could cause loss of life or serious bodily injury to its occupants, the Agency should provide expeditious notification to other law enforcement agencies that have jurisdiction concerning the threat.

"(3) Means, Manner, and Documentation of Notification. The Agency may determine the means and manner of the notification. The Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"(4) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to notify another law enforcement agency that has

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investigative jurisdiction concerning a threat:

"(i) when providing the notification to the other law enforcement agency is likely to cause equal or greater physical harm to one or more persons; or

"(ii) when the other law enforcement agency knows the nature and extent of the specific threat to the intended victim.

"b. Whenever time and circumstances permit, an Agency's decision not to provide notification to another law enforcement agency in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. In all cases, the reasons for an agency's decision not to provide notification should be documented in writing in the Agency's files.

"IV. Rights of Third Parties.

"Nothing in these guidelines is intended to create, or does create, an enforceable legal right or private right of action.

Footnotes:

"1 If the equal or greater harm would occur to a Government informant or Agent as a result of his/her participation in an investigation, consideration should be given to extricating that individual from the investigation or taking other appropriate measures in order to minimize the risk.

"2 As used in these guidelines, 'Senior Field Manager' refers to a Federal Law Enforcement Agency operational field manager of the GS-15 rank or higher, or the person serving in that capacity in his or her absence."

EFFECTIVE: 03/14/97

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SECTION 90. IRREGULARITIES IN FEDERAL PENAL INSTITUTIONS

90-1 STATUTES

Title 18, USC, Sections 1791 and 1792.

EFFECTIVE: 07/11/85

90-1.1 Section 1791. Providing or Possessing Contraband in Prison

"(a) Offense. A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto--

"(1) he provides, or attempts to provide, to an inmate of a Federal penal or correctional facility--

"(A) a firearm or destructive device;

"(B) Any other weapon or object that may be used as a weapon or as a means of facilitating escape;

"(C) a narcotic drug as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(D) a controlled substance, other than a narcotic drug, as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802), or an alcoholic beverage;

"(E) United States currency; or

"(F) any other object; or

"(2) being an inmate of a Federal penal or correctional facility, he makes, possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

"(b) Grading. An offense described in this section is punishable by--

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"(1) imprisonment for not more than ten years, a fine of not more than \$25,000, or both, if the object is anything set forth in paragraph (1) (A);

"(2) imprisonment for not more than five years, a fine of not more than \$10,000, or both, if the object is anything set forth in paragraph (1) (B) or (1) (C);

"(3) imprisonment for not more than one year, a fine of not more than \$5,000, or both, if the object is anything set forth in paragraph (1) (D) or (1) (E); and

"(4) imprisonment for not more than six months, a fine of not more than \$1,000, or both, if the object is any other object.

"(c) Definitions. As used in this section, 'firearm' and 'destructive device' have the meaning given those terms, respectively, in 18 U.S.C. 921 (A) (3) and (4)."

EFFECTIVE: 07/11/85

90-1.2 Section 1792. Mutiny and Riot Prohibited

"Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal or correctional facility, shall be imprisoned not more than ten years or fined not more than \$25,000, or both."

EFFECTIVE: 07/11/85

90-1.3 Statutory Amendments Based on the Comprehensive Crime Control Act of 1984 (CCCA of 84)

(1) The CCCA of 84 was enacted into law on 10/12/84 and under Chapter XI, Part H, entitled "Possession of Contraband In Prison," amended the Irregularities in Federal Penal Institutions Statutes, Title 18, USC, Sections 1791 and 1792, as follows:

(2) New Subsection 1791 (a) (1) makes it an offense for any person to provide or attempt to provide to a Federal inmate, in

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violation of a prison rule, regulation, or order, one of the above-listed six classifications of objects.

(3) New Subsection 1791 (a) (2) makes it an offense for a Federal inmate to make, possess, procure or otherwise provide himself/herself with any of the objects enumerated in Subsection (a) (1) or attempt to do so.

(4) New Subsection 1791 (b) provides different grades of penalties, ranging from a prison term of six months and a fine of \$1,000, to a prison term of ten years and a fine of \$25,000, corresponding to the danger represented by the different types of contraband involved.

(5) Prior to the passage of the CCCA of 84, both Sections 1791 and 1792 dealt with prison contraband. Under the above Act, the contraband offenses were all consolidated into Section 1791 and were deleted from Section 1792. Furthermore, this Act, under Section 1792, added a fine of up to \$25,000 to the existing maximum penalty of 10 years for prison mutiny or riot.

(6) It should be noted that Part H of this Act was primarily designed to remedy the following two defects in the above two statutes dealing with prison contraband. Under the former language of Section 1791, it was an offense to introduce contraband into, or to move it from place to place within a prison, but possession, in itself, of a prohibited article was not a violation of Federal law. Furthermore, both Sections 1791 and 1792 provided a penalty of up to 10 years' imprisonment without taking into consideration the danger represented by the different types of contraband involved.

(7) In regard to the seizure of contraband by Bureau of Prisons (BOP) personnel, Part H of this Act added Section 4012 to Title 18, U.S. Code, to provide statutory authority for the summary seizure by the BOP of contraband and for its forfeiture to the Government. Prior to the passage of Section 4012, the right of BOP personnel to seize contraband was derived from the general statutory authority of the BOP, pursuant to Title 18, USC, Section 4042, to provide for the protection and discipline of inmates. Federal courts have differed over the authority of BOP, under the above general language, to seize and retain contraband. Section 4012 clarifies the authority of BOP personnel to summarily seize contraband articles and have them forfeited to the Government. The BOP is presently developing administrative procedures for the forfeiture of seized contraband.

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EFFECTIVE: 07/11/85

90-2 MISCELLANEOUS

The Department of Justice ruled on 12/11/91 that the FBI has primary investigative jurisdiction over conspiracy to violate the ERS (Title 18, USC, Sections 751-757). Conspiracy to violate any of these statutes should be investigated under the 90 classification. The provisions of Title 18, USC, Sections 201 and 202, relating to bribery, should also be considered in investigation of acts which may be in violation of the IFPI statutes.

EFFECTIVE: 09/07/93

90-3 POLICY

(1) When a complaint is received alleging a basic or nonserious violation of these sections, the field office will determine whether preliminary investigation is warranted and will coordinate with the local Bureau of Prisons (BOP) facility. Whenever a complaint is received alleging violations which are serious, sensitive, or unusual, or would cause notoriety in the local or national news media, the field office should initiate investigation promptly and expeditiously advise the Criminal Investigative Division (CID), FBIHQ, by telephone, followed by a communication reporting the facts and results of any investigation initiated. Allegations or complaints concerning BOP personnel should be expeditiously submitted to FBIHQ by LHM and cover communication in order to ensure appropriate coordination with BOP headquarters. Institute investigation promptly. Allegations of civil rights violations relating to violence motivated by racial or religious bias or an illegal act under color of law should be investigated according to MIOG, Part I, Section 44 or 282, respectively.

(2) Cases can be presented to the USA without prior FBIHQ authority.

(3) Reports of riots or sit-down strikes which may not initially involve an FBI violation may be received from authorities. Agents should not enter the penitentiary during such occurrences and

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they should in no way interfere with the prison administration in connection with quelling the riot or the sit-down strike. When notified, effective liaison should be set up and FBIHQ informed immediately. At the first opportunity an Agent should enter the institution and immediately ascertain from the warden if any violation within the FBI's jurisdiction has occurred. As incidents, such as riots or sit-down strikes, may result in violations within the FBI's jurisdiction, sufficient manpower should be available to act immediately if a violation is indicated.

(4) Violations of Title 21, USC, Section 844, Controlled Substance Act (CSA) occurring within federal penal institutions will be handled by the FBI under Title 18, USC, Section 1791. Information developed during CSA violations occurring within federal penal institutions that involve subjects outside the institutions should be referred to the Drug Enforcement Administration.

(5) INVESTIGATIONS REGARDING CRIMINAL ALLEGATIONS AGAINST
PUBLIC OFFICIALS

(a) It is recognized that during the course of an investigation within this classification information is sometimes developed alleging that a federal, state or local official is in violation of federal law. If the focus of the investigation continues to be this substantive classification and/or federal crimes committed by a person who merely happens to be a federal, state or local official, "Corruption-Related Matter," should be added to the character of the case, and it will continue to be managed under the Violent Crimes and Major Offenders Program. If, however, the focus of the investigation shifts to the abuse of his/her position of trust by the federal, state or local official in violation of federal criminal law, a new "Corruption of Federal Public Officials" (58) or "Corruption of State and Local Public Officials" (194) matter should be opened within the White Collar Crimes Program.

(b) Deleted

(c) Deleted

(d) Deleted

(e) Deleted

(6) RESOLUTION OF HOSTAGE SITUATIONS OR CRIMINAL ACTIONS
WHICH REQUIRE FBI PRESENCE AT BOP FACILITIES

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"MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN THE FEDERAL BUREAU OF PRISONS (BOP)
AND THE FEDERAL BUREAU OF INVESTIGATION (FBI)
ON HOSTAGE OR CRISIS INCIDENTS AT BUREAU OF PRISONS FACILITIES

"I. PURPOSE: This Memorandum of Understanding (MOU) is to establish interagency operational policy guidelines for Federal Bureau of Prisons (BOP) and Federal Bureau of Investigation (FBI) personnel for the successful resolution of hostage situations or criminal actions which require FBI presence at BOP facilities.

"II. JURISDICTION:

"A. The BOP has primary responsibility for all operations at federal correctional facilities during routine and emergency operations.

"B. The FBI has primary investigative responsibility for all violations of Title 18 (T18), United States Code (USC), Section 13 (Crimes on a Government Reservation) (CGR) including the jurisdiction as defined in Section 7 (Special maritime and territorial jurisdiction of the United States defined).

"C. The FBI also has investigative responsibility for criminal activities at BOP facilities, to include hostage situations or similar incidents, under T18, USC, Sections 1791 and 1792 (Irregularities in Federal Penal Institutions), and T18, USC, Section 1203 (Hostage Taking).

"III. DEFINITIONS:

"As used herein:

"A. 'BOP On-Scene Commander' refers to a BOP field commander whom the BOP Director has designated as in charge of the BOP facility.

"B. 'FBI On-Scene Commander' refers to an FBI SAC or SAC's designee who is in charge of the FBI resources during an operational response by the FBI.

"C. An 'advisory response' is a minimal FBI response during which the FBI deploys FBI crisis management assets to assist/advise the crisis response resources of the BOP. At this level response, the FBI SAC or SAC's designee will deploy as the FBI's on-scene coordinator. The FBI will not deploy an FBI command and control element.

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"D. An operational response is defined as one during which the FBI deploys significant FBI crisis management resources, as necessary, to resolve the crisis. This level response may consist of HRT deployment, and/or multiple FBI field office SWAT teams, and/or crisis negotiation/behavioral specialists and/or technical personnel. An operational response will always be accompanied by an FBI SAC or SAC's designee and an FBI command and control element.

"IV. ADVANCE COORDINATION:

"A. BOP Wardens and FBI SACs will develop a program to exchange information concerning each BOP facility within a field division's territory. This program will include the specifics of how joint operations will be implemented, site surveys, appropriate interagency training and logistical support during a crisis situation.

"B. BOP and FBI crisis response plans will be prepared by executive management personnel at BOP facilities and FBI field divisions to address specific crisis management requirements at each BOP facility. The crisis response plans will reflect the terms of this MOU and be periodically updated.

"V. IMPLEMENTATION: The decision as to whether FBI involvement constitutes an advisory or operational response will be dependent on the circumstances of the incident, the request from the BOP On-Scene Commander and as necessary, additional direction and/or guidance from BOP and FBI Headquarters.

"VI. COMMAND, CONTROL AND COORDINATION:

"A. In the event of an advisory response by the FBI, the BOP On-Scene Commander will retain command and control of all aspects of the crisis response. BOP Headquarters will retain overall command and control of the incident. The BOP On-Scene Commander will also coordinate with the FBI and keep the FBI informed of all developments. The FBI will have a person designated to the BOP command post.

"1. FBI advisors may be part of HRT, field SWAT, crisis negotiators, behavioral specialists, technical personnel or other assets as agreed upon by the FBI SAC or SAC's designee and BOP On-Scene Commander.

"B. In the event of an operational response by the FBI, which will include an FBI On-Scene Commander and a command and control element, the BOP and FBI On-Scene Commanders will work cooperatively toward

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resolution of the crisis. All actions of the FBI On-Scene Commander will be closely coordinated with the BOP On-Scene Commander who retains overall responsibility for the institution operations and the incident.

"1. During an FBI operational response, the FBI and BOP will immediately form a joint command post upon the arrival of FBI crisis response resources.

"2. Once the FBI fully activates an operational response at the scene, the FBI On-Scene Commander will assume responsibility of all crisis management assets (BOP and FBI) in terms of planning for and executing plans for incident resolution. The FBI On-Scene Commander will consult and coordinate with the BOP On-Scene Commander who retains overall responsibility for the institution and the incident.

"3. BOP and FBI Headquarters command centers will establish a direct link throughout the duration of the incident to exchange information and to address issues of mutual concern as they arise. Issues that cannot be resolved at the scene of the incident or at the command center level will be addressed at headquarters level by senior BOP and FBI staff.

"C. The FBI On-Scene Commander, in consultation with the BOP On-Scene Commander, may initiate an emergency assault should there be imminent threats to life or of serious injury to hostages, inmates, or law enforcement personnel. In all other circumstances, no planned tactical resolution will be initiated without prior specific approval from both BOP and FBI Headquarters.

"D. The FBI On-Scene Commander will conduct additional criminal investigation following the resolution of the incident, including crime scene investigation, if appropriate. Debriefings of all officials involved are required and will be accomplished as soon as possible after the resolution of the incident and will be coordinated through the FBI On-Scene Commander. This requirement does not supersede BOP's policy regarding post incident interviews and investigation.

"VII. TERMS OF AGREEMENT: This MOU will take effect immediately upon signature of all parties.

"For the Federal Bureau of Investigation:

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"/s/ _____
LOUIS J. FREEH
Director

10/25/96
Date

"For the Federal Bureau of Prisons:

"/s/ _____
KATHLEEN M. HAWK
Director"

10/24/96
Date

(7) The following MOU was executed for the purpose of establishing local interagency operational procedures and guidelines concerning the conduct of investigations of violations of federal criminal statutes occurring in BOP facilities.

"MEMORANDUM OF UNDERSTANDING BETWEEN THE FEDERAL BUREAU OF
INVESTIGATION AND THE FEDERAL BUREAU OF PRISONS ON VIOLATIONS OF
FEDERAL CRIMINAL STATUTES

"I. PURPOSE: The purpose of this Memorandum of Understanding (MOU) is to establish interagency operational procedures and guidelines for the Federal Bureau of Investigation (FBI) and the Federal Bureau of Prisons (BOP) with regard to violations of federal criminal statutes occurring in BOP facilities, on BOP property or which involve BOP staff. In hostage and/or crisis situations, this MOU is superseded by the separate MOU between the FBI and the BOP. In violations of the Federal Escape and Rescue Statutes, this MOU is superseded by the separate MOU between the FBI, the BOP and the United States Marshals Service.

"II. GOALS: It is mutually agreed that general guidelines and procedures should be established and implemented to ensure an efficient and effective response to criminal incidents which occur in BOP facilities, on BOP property or which involve BOP staff. It is further agreed that BOP facilities and FBI field divisions will coordinate their efforts to develop local procedures, as appropriate, and fully share information and the results of their respective investigations to assist each agency in fulfilling its own mission and responsibilities concerning violations of federal criminal statutes occurring at or involving staff of Federal Bureau of Prisons' institutions. The violations in question include, but are not limited to, homicides or suspected homicides, unexplained or unusual deaths, assaults on federal officers or inmates (serious or involving weapons), significant destruction of government property, trafficking

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in contraband, and other serious offenses.

"III. JURISDICTION:

"(A). The BOP has primary responsibility for all operations of a Federal prison facility during routine and emergency situations, as well as during investigations of criminal matters.

"(B). The FBI shall assume primary investigative responsibility and jurisdiction once it has accepted a criminal matter for investigation. Coordination will be implemented and maintained with the BOP as appropriate.

"IV. IMPLEMENTATION:

"(A). The FBI and the BOP will develop and exchange information regarding the facilities at all BOP sites. The information should be included but is not limited to: prison site surveys, appropriate interagency training, and operational support in times of crisis.

"(B). A local operational plan to address resources, manpower, points of contact, notifications, and other relevant matters, will also be prepared by affected local BOP and FBI field office staff in accordance with the terms of this MOU. This plan will be routinely updated.

"V. RESPONSIBILITIES:

"(A). BUREAU OF PRISONS RESPONSIBILITIES:

"(1). Upon the occurrence of any incident that may involve a criminal act, the BOP will take immediate action to secure and preserve the scene of the incident and to identify any witnesses to the incident.

"(2). Upon the occurrence of any incident involving a criminal act, the BOP will immediately notify the appropriate designated FBI representative of the incident. An apparent suicide will be treated as a possible homicide until determined otherwise by a competent authority, such as the coroner or medical examiner. Any further investigative activity by the BOP shall be closely coordinated with the FBI so as to appropriately support the ongoing criminal investigation, while also pursuing administrative actions as appropriate.

"(3). Upon notification, if the FBI does not initiate a criminal investigation, the BOP will assume primary investigative

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responsibility for conducting and documenting an investigation of the incident for possible disciplinary action.

"(B). FEDERAL BUREAU OF INVESTIGATION RESPONSIBILITIES:

"(1). Upon notification by the BOP of the occurrence of an incident that may involve a criminal act, the appropriate designated FBI representative will determine whether to initiate an FBI criminal investigation of the incident. That determination and notification to the BOP concerning the incident will be made as soon as feasible but not greater than 24 hours after the BOP notification to the FBI. The FBI will conduct an on-site investigation of inmate deaths. An apparent suicide will be treated as a possible homicide until determined otherwise by a competent authority such as the coroner or medical examiner.

"(2). In those instances in which the FBI initiates a criminal investigation, the FBI will assume primary investigative responsibility for conducting and documenting the criminal investigation.

"(3). In those instances in which the FBI initiates a criminal investigation, the FBI will coordinate investigative activity with the BOP as appropriate, in order to minimize the disruption to the operation of the BOP facility.

"(4). In those instances in which the FBI has conducted a criminal investigation, the BOP is to be provided notification regarding the closure of the FBI investigative file.

"VI. PROTOCOL: It is agreed that the contents of this MOU will be provided to both agencies involved in this agreement, as well as the Executive Office of United States Attorneys, in order to fully coordinate notification procedures, points of contact to facilitate liaison, crime-scene management and preservation procedures, and development of criminal investigations.

"VII. STANDARD PROCEDURES:

"(A). NOTIFICATION/INITIAL REFERRAL: Upon the occurrence of any incident involving a criminal act, the BOP will immediately notify the appropriate designated FBI representative of the incident. During the initial contact, local BOP staff shall provide information and receive instructions regarding immediate efforts to secure the crime scene until the FBI responds.

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"(B). RESPONSE: When a criminal case is referred to the FBI for investigation, local FBI staff shall respond as soon as practicable either by telephone or by an on-site visit. Following the initial referral, the FBI shall determine whether to initiate an investigation. That determination shall be made and communicated to the BOP as soon as feasible but not greater than 24 hours after the BOP notification to the FBI.

"(C). INVESTIGATION: In the event the local FBI division initiates an investigation, the FBI will assume primary investigative responsibility and jurisdiction. Coordination will be implemented and maintained with the BOP as appropriate. In cases where the FBI requests investigative assistance from the BOP, the FBI will convey instructions regarding the questioning of suspects, preservation of the crime scene or evidence, and any other pertinent instructions.

"VIII. TERMS OF AGREEMENT: This MOU will take effect immediately upon signature of all parties.

"For the Federal Bureau of Investigation:

"/s/_____
LOUIS J. FREEH
Director

8/9/96
DATE

"For the Federal Bureau of Prisons:

"/s/_____
KATHLEEN M. HAWK
Director"

8/23/96
DATE

EFFECTIVE: 04/24/97

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CHARACTER - IRREGULARITIES IN FEDERAL PENAL INSTITUTIONS

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EFFECTIVE: 11/20/90

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SECTION 91. BANK ROBBERY, BANK BURGLARY, BANK LARCENY, BANK
EXTORTION

91-1 BACKGROUND

The Bank Robbery and Incidental Crimes Statute, Title 18, U.S. Code (USC), Section 2113, was enacted in 1934 making it a Federal violation to rob any national bank or state member bank of the Federal Reserve System. Investigative jurisdiction under this statute was delegated to the FBI. In 1935 this statute was amended to include all banks insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC). In 1937 this statute was expanded to include the violations of bank burglary and bank larceny. In 1950 this statute was amended to cover federally insured savings and loan associations. In 1959 this statute was amended to cover Federal credit unions. In 1986 this statute was amended to include bank robberies committed by extortion.

EFFECTIVE: 10/26/87

91-2 BANK ROBBERY AND INCIDENTAL CRIMES STATUTE AND PENALTIES

EFFECTIVE: 10/26/87

91-2.1 Bank Robbery and Bank Extortion, Title 18, USC, Section 2113(a)

"Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion, any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both."

EFFECTIVE: 10/26/87

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91-2.2 Bank Burglary, Title 18, USC, Section 2113(a)

"Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan association and in violation of any statute of the United States, or any larceny shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both."

EFFECTIVE: 10/26/87

91-2.3 Bank Larceny, Title 18, USC, Section 2113(b)

"Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value exceeding \$100 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined not more than \$5,000 or imprisoned not more than ten years or both; or

"Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value not exceeding \$100 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or a savings and loan association, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 10/26/87

91-2.4 Receiving and Possession, Title 18, USC, Section 2113(c)

"Whoever receives, possesses, conceals, stores, barter, sells, or disposes of, any property or money or other thing of value which has been taken from a bank, credit union, or a savings and loan association, in violation of subsection (b) of this statute, knowing the same to be property which has been stolen, shall be subject to the punishment provided by said subsection (b) for the taker."

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EFFECTIVE: 10/26/87

91-2.5 Assault or Life In Jeopardy, Title 18, USC, Section
2113(d)

"Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this statute, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined not more than \$10,000 or imprisoned not more than twenty-five years, or both."

EFFECTIVE: 08/27/90

91-2.6 Kill or Kidnap, Title 18, USC, Section 2113(e)

"Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or punished by death if the verdict of the jury shall so direct."

EFFECTIVE: 08/27/90

91-2.7 Definition of Bank, Title 18, USC, Section 2113(f)

"As used in this section the term 'bank' means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, and any institution the deposits of which are insured by the Federal Deposit Insurance Corporation."

EFFECTIVE: 08/27/90

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91-2.8 Definition of Credit Union, Title 18, USC, Section 2113(g)

"As used in this section the term 'credit union' means any Federal credit union and any State-chartered credit union the accounts of which are insured by the National Credit Union Administration Board, and any 'Federal credit union' as defined in section 2 of the Federal Credit Union Act."

EFFECTIVE: 08/27/90

91-3 COMMENTS AND CLARIFICATIONS REGARDING THE BANK ROBBERY AND
INCIDENTAL CRIMES STATUTE (BRICS)

EFFECTIVE: 08/27/90

91-3.1 Robbery of Bank Messengers

A bank messenger delivering money, etc., to or from a bank covered under the BRICS is considered to have custody and control of the above property on behalf of the bank. A robbery of said property from the messenger is a violation of Section 2113(a), Bank Robbery.

EFFECTIVE: 08/27/90

91-3.2 Robbery of an Armored Carrier

Robbery of an armored carrier may be a violation of Title 18, USC, Section 2113. However, to ensure uniformity, all robberies of armored carriers are to be investigated as Hobbs Act - Armored Carriers violations. (See Part I, Section 192, of this manual, for complete details.)

EFFECTIVE: 08/27/90

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91-3.3 Bank Night Depositories

(1) Regardless of the contractual relationship between the bank and the depositor, such deposits are considered to be within the care, custody, and control of the bank based on the bailment situation created when the deposit is made.

(2) A break-in or attempted break-in of a bank night depository with the appropriate intent constitutes a bank burglary violation. Under these circumstances, if deposits are stolen, a bank larceny violation also exists.

(3) An unsuccessful attempt to intercept or trap deposits placed in a bank night depository with the appropriate intent by means of a device constitutes an unlawful attempt to enter the bank within the meaning of the BRICS and constitutes a bank burglary violation. Under these circumstances, if deposits are stolen, a bank larceny violation also exists.

EFFECTIVE: 10/26/87

91-3.4 Automated Teller Machines (ATMs)

(1) In the early 1970s, ATMs were established both on and off bank premises by federally insured financial institutions.

(2) ATMs provide services ranging from the transfer of funds from one account to another, accepting payments on installment loans, or receiving deposits. An ATM can also dispense cash to a set limit and debit it to the customer's savings or checking account.

(3) For legal purposes, an ATM is a bank or branch bank within the meaning of the BRICS.

(4) The money, deposits, or other things of value which are received by or contained within an ATM belong to or are in the care, custody, or control of the bank.

(5) An ATM located off premises may be serviced solely by the bank or by a third party under contract with the bank.

(6) An ATM by definition is not manned, therefore, the robbery provisions of the BRICS are not applicable; however, a bank burglary or bank larceny violation may occur in connection with an

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ATM.

(7) A break-in or attempted break-in of an ATM of a federally insured banking institution is a bank burglary violation.

(8) A break-in of an ATM of a federally insured banking institution where money or another thing of value is taken with intent to steal or purloin constitutes both a bank burglary and bank larceny violation.

(9) To fraudulently obtain money or another thing of value from an ATM by using a forged, counterfeit or stolen access card under false pretenses is a bank larceny violation.

EFFECTIVE: 10/26/87

91-3.5 Larceny, Larceny by Trick, and False Pretenses in Relation to Bank Larceny

(1) In order for a bank larceny violation to exist, the elements of common law larceny, larceny by trick or false pretenses must be present.

(2) Common law larceny is defined as the taking and carrying away of the personal property of another without his/her consent with intent to steal.

(3) Larceny by trick is defined as obtaining mere possession and not title to the personal property of another by fraudulent representations with intent to steal.

(4) False pretenses are defined as obtaining both possession and title to the personal property of another by fraudulent representations with intent to steal.

(5) If a bank is victimized by means of larceny by trick, such as presentation of bogus coin rolls, quick change schemes, obtaining money or another thing of value from an ATM by using a forged, counterfeit, or stolen access card, etc., there has been a bank larceny violation.

(6) If a bank is victimized by means of larceny by trick, such as a subject posing as an armored car employee authorized to pick up certain funds for delivery to a stated place, it is a bank larceny

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violation. This is based on the fact that the victim bank, based on the false representations, merely intended to turn over possession and not title of the funds to the subject.

(7) It should be noted that Section 2113(b) only applies where the amount of money involved exceeds \$100.00 and there is an actual taking or carrying away with intent to steal or purloin the money or other thing of value. In any situation in which there is doubt whether or not a bank larceny violation has occurred, the USA should be promptly consulted for a legal opinion.

EFFECTIVE: 10/26/87

91-3.6 Attempted Bank Larcenies

It should be noted that Section 2113(b), Bank Larceny, does not contain a provision for an attempted bank larceny and covers only situations in which an actual bank larceny occurs. However, in a situation involving an attempted bank larceny by a burglary, the second paragraph of Section 2113(a), Bank Burglary, will apply even though Section 2113(b), Bank Larceny, does not.

EFFECTIVE: 10/26/87

91-3.7 Theft Not Necessary In a Bank Burglary Violation

(1) A bank burglary violation, Section 2113(a), occurs when the subject forcibly enters or attempts to enter a banking institution with intent to commit any larceny or any felony affecting such banking institution and in violation of any statute of the United States.

(2) It is not necessary that the subject actually steal any property belonging to, or in the care, custody, control, management, or possession of the banking institution in order to be prosecuted for bank burglary. If, during the commission of a bank burglary, the subject actually steals any property, as set forth above, he/she has also committed a bank larceny violation in addition to a bank burglary violation.

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EFFECTIVE: 08/27/90

91-3.8 Theft From Safe-Deposit Boxes

Although the contents of a safe-deposit box belong to the box holder and they are not federally insured, a theft from a safe-deposit box during a bank burglary constitutes bank larceny since the contents are in the care of the bank within the meaning of the BRICS.

EFFECTIVE: 08/27/90

91-3.9 Receiving or Possession of Bank Robbery, Bank Burglary,
Bank Larceny or Bank Extortion Loot

Under Section 2113(c), Receiving and Possession, it would appear that this offense covers only property, money, or other things of value received or possessed from a bank larceny; however, this section also covers property, money, or other things of value received or possessed from a bank robbery, bank burglary or bank extortion.

EFFECTIVE: 08/27/90

91-3.10 Prosecution for Receiving and Possession

Under Section 2113(c), Receiving and Possession, it is not necessary to prove that the subject knew the property, money, or other thing of value was taken from a bank, credit union, or savings and loan association, in violation of the BRICS, only that the subject knew that the property, money or other thing of value was stolen. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property, money or other thing of value was stolen, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

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EFFECTIVE: 10/23/95

91-3.11 Death Penalty

Under Section 2113(e), the death penalty provision has been ruled invalid.

EFFECTIVE: 08/27/90

91-3.12 Savings and Loan Association

For purposes of clarification, under Section 2113(f), the term "bank" includes the following banking institutions:

- (1) A Federal savings and loan association.
- (2) An institution insured by the Federal Deposit Insurance Corporation's Savings Association Insurance Fund.
- (3) Deleted
- (4) Deleted

EFFECTIVE: 08/27/90

91-3.13 Federal Land Bank

(1) A Federal land bank operating under a charter issued by the Farm Credit Administration is a banking institution operating under the laws of the United States and, accordingly, is covered under the BRICS.

(2) It should be noted, however, that Federal land banks do not accept deposits, deal primarily in mortgages and, therefore, are not a likely target for a 91 subject.

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EFFECTIVE: 08/27/90

|| 91-3.14 | State Prosecution Not a Bar to Federal Prosecution

State prosecution for any offense covered under the BRICS is not a legal bar to subsequent Federal prosecution under the above statute; however, there must be compelling reasons and the Attorney General must personally approve such prosecution.

EFFECTIVE: 08/27/90

91-4 BANK PROTECTION ACT OF 1968 AND THE FEDERAL CREDIT UNION
ACT

EFFECTIVE: 08/27/90

91-4.1 Bank Protection Act (BPA) of 1968

(1) The BPA of 1968, Public Law 90-389, was enacted on 7/7/68 and provides that Federal regulatory agencies shall "promulgate rules establishing minimum standards with which each bank or savings and loan association must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries and larcenies and to assist in the identification and apprehension of persons who commit such acts."

(2) Under the above Act, the following Federal regulatory agencies regulate the following financial institutions:

(a) Comptroller of Currency - national banks and banks located in the District of Columbia;

(b) Federal Reserve System (FRS) - state-chartered banks that are members of the FRS;

(c) Federal Deposit Insurance Corporation (FDIC) - state-chartered banks that are not members of the FRS but the accounts of which are insured by the FDIC;

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(d) Office of Thrift Supervision - Federal savings and loan associations and institutions and state-chartered savings and loan associations and institutions, the accounts of which are insured by the Federal Deposit Insurance Corporation's Savings Association Insurance Fund.

(e) Credit unions are not covered under this Act. Refer to the Federal Credit Union Act citation, 91-4.2.

(3) The regulations of the Federal regulatory agencies were originally published in the Federal Register, Volume 34, Number 11, dated 1/16/69, with certain amendments published in the Federal Register, Volume 38, Number 194, dated 10/9/73, copies of which are available in each office.

(4) All Agents working 91 matters must be familiar with the above regulations. In general, these regulations require certain minimum mandatory security devices and procedures and others that are discretionary, subject to changes ordered by the responsible Federal regulatory agencies.

(5) Mandatory security devices include:

(a) A lighting system during the hours of darkness in the vault area if visible from the outside.

(b) Tamper-resistant locks on exterior doors and windows.

(c) An alarm system or other appropriate device for promptly notifying the nearest responsible law enforcement officers of an attempted or perpetrated robbery or burglary.

(6) Mandatory security procedures include:

(a) The development and utilization of a security program with certain characteristics.

(b) Bait money, comprised of Federal Reserve notes with denominations, bank of issue, serial numbers, and series year recorded, maintained at each teller's station.

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91-4.2 Federal Credit Union Act (FCUA)

(1) The FCUA, amended by Public Law 91-468, enacted on 10/19/70, provides that the Administrator, National Credit Union Administration (NCUA), shall insure the accounts of all Federal credit unions and those state-chartered credit unions who apply for this insurance.

(2) The regulations of the NCUA, which established minimum mandatory security devices and procedures for the above credit unions to discourage robberies, burglaries and larcenies and to assist in the identification and apprehension of persons who commit such acts, became effective on 6/15/71, and copies of these regulations are available in each office.

(3) The minimum mandatory security devices and procedures established by the NCUA under the FCUA are quite similar to the regulations established by the Federal regulatory agencies under the BPA of 1968, and all Agents working 91 matters must be familiar with these regulations.

EFFECTIVE: 10/26/87

91-4.3 Requests by Financial Institutions for FBI Evaluation of
Security Devices, Procedures, and Programs

(1) The regulations of the Federal regulatory agencies under the BPA of 1968 and the FCUA also state that the bank security officer may provide for the installation, maintenance, and operation of other security devices after seeking the advice of law enforcement officers and any other appropriate sources.

(2) The above regulations do not require the FBI to furnish financial institutions with an evaluation of their mandatory and/or discretionary security devices and procedures; however, as a matter of policy, it is permissible and desirable for the FBI to orally recommend and encourage their use. For obvious reasons, the FBI should not identify or endorse related equipment by name or manufacturer as being the most desirable.

EFFECTIVE: 02/16/89

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91-4.4 Reporting Noncompliance with Mandatory Security
 Regulations by Financial Institutions to FBIHQ

(1) Enforcement of the mandatory security devices and procedures required by the five Federal regulatory agencies under the BPA of 1968 and the FCUA is the responsibility of the above agencies and the DOJ.

(2) If during the course of an investigation it is determined that a financial institution covered under these Acts is not in compliance with the mandatory security devices and procedures, a letterhead memorandum (LHM), original and four copies, should be submitted to FBIHQ by airtel, marked Attention: Violent Crimes Unit, Criminal Investigative Division.

(3) The cover airtel should set forth the proper case title as normally reported; however, the title of the LHM should set forth only the identity and location of the financial institution involved. The body of the cover airtel should identify the Federal regulatory agency which has responsibility for the financial institution involved and a request for FBIHQ to disseminate copies of the enclosed LHM to the Federal regulatory agency and the DOJ. The body of the LHM should set forth a succinct summary of the violation, the date of occurrence and the security violation committed. The body of the LHM should not set forth the identities of any subjects or suspects.

(4) FBIHQ, upon receipt of the above LHM, will forward one copy each to the appropriate Federal regulatory agency and the General Litigation and Legal Advice Section, Criminal Division, Department of Justice, for their consideration in initiating action to correct the situation.

(5) Under the BPA of 1968 and FCUA, a financial institution that violates a mandatory security regulation shall be subject to a civil penalty not to exceed \$100 for each day of future noncompliance.

EFFECTIVE: 02/16/89

91-5 INVESTIGATIVE POLICY AND OBJECTIVE IN BANK ROBBERY, BANK
 BURGLARY, BANK LARCENY AND BANK EXTORTION VIOLATIONS

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EFFECTIVE: 02/16/89

91-5.1 Investigative Policy

The FBI's investigative policy in 91 cases is an immediate measured Agent response by all offices to all violations of the Bank Robbery and Incidental Crimes Statute, with subsequent investigations utilizing sufficient Agent manpower to ensure effective handling of all incidents.

EFFECTIVE: 02/16/89

91-5.2 FBI's Objective

The FBI's objective in 91 cases is to intelligently utilize all allocated funded resources to achieve the maximum federal and local solution rate and prosecutive results possible.

EFFECTIVE: 10/18/95

91-5.3 Manpower Commitments (See MIOG, Part I, 91-9.1.)

FBIHQ is aware that many offices are continually encountering manpower problems in meeting their investigative responsibilities. As a consequence, it is recognized that it may not be possible or desirable to commit extensive manpower resources to every bank robbery, bank burglary, and bank larceny investigation. Those offices having well-trained, effective local law enforcement agencies may have to consider exercising the necessary flexibility in conjunction with local authorities especially when responding to routine bank robbery, bank burglary, and bank larceny violations. The number of Agents responding, the extent of investigation to be conducted and the length of time a case should be kept in a pending status should be determined by responsible supervisory personnel. It must be clearly understood, however, that the FBI must continue to fully meet its investigative responsibilities in this area.

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EFFECTIVE: 10/18/95

91-5.4 Guidelines For Closing Cases

In determining how long a bank robbery, bank burglary, bank larceny or bank extortion case should be kept in a pending status and active investigation conducted when no leads or suspects have been developed, the following policy should be adopted in those cases wherein investigation was instituted.

(1) When an aggressive and thorough investigation has been conducted in a bank burglary/bank larceny case where the loss is less than \$10,000.00 and no leads or suspects have been developed or appear to be forthcoming, the case should be closed within six months. If suspects or new leads are independently developed, the case should be reopened and the investigation reinstituted.

(2) In regard to bank robberies, bank extortions, and bank burglaries/bank larceny cases where the loss exceeds \$10,000.00, it should be understood that the above within-six-month closing policy does not apply due to the inherent seriousness of these violations. These cases should be aggressively and thoroughly investigated for no less than six months before any consideration is given to closing the case due to lack of leads or suspects. Every investigative option must be exhausted and it must be determined that no further evidence is forthcoming. Prior to closing, each case should be judged on its merits, and any doubts whether a case should be closed or remain pending should be resolved in favor of continuing the investigation for whatever time period within the Statute of Limitations is required to solve it or justify its closing.

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91-5.5 Response and Subsequent Investigative Plan

| (1) | FBIHQ does not believe it is feasible to develop a response and subsequent investigative plan that can be molded to fit each office. Therefore, each SAC will be responsible for the development of a response and subsequent investigative plan, if not already in effect, that will fit the needs of his/her particular office while still fulfilling the FBI's investigative responsibilities. The data, statistics, and factors to be considered in measuring the soundness and effectiveness of each office's bank robbery, bank burglary, bank larceny and bank extortion response and subsequent investigative plans are readily available within each office.

| (2) | Each Agent who may respond and/or conduct investigations involving 91 violations should be made aware of this overall plan and be familiar with all its phases.

| (3) | This overall plan should be reviewed annually by responsible field supervisory personnel to ensure that it is adequately revised to meet changing conditions. |

EFFECTIVE: 08/27/90

| 91-6 | DELETED |

EFFECTIVE: 08/27/90

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EFFECTIVE: 08/27/90

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91-8 IMMEDIATE INVESTIGATIVE STEPS TO BE TAKEN AT THE SCENE OF
A 91 VIOLATION

(1) Establish liaison with local authorities at the scene in order to coordinate the investigation.

(2) Ensure that the crime scene area is protected in order that an appropriate crime scene search can be subsequently conducted.

(3) Promptly obtain a physical description of the subject, his/her clothing, whether armed, bait money taken, getaway vehicle, escape route, and disseminate this information immediately in an effort to apprehend the subject in the area.

(4) Obtain the bank surveillance camera films for prompt processing.

(5) If a demand note was utilized, obtain possession for prompt submission to the FBI Laboratory for examination. See 91-17 of this manual.

(6) Determine the extent and scope of the neighborhood investigation required.

(7) Interview the bank employees and other witnesses at the scene for complete details of the violation and the identities of other possible witnesses. Information furnished which may become testimony should be recorded by FD-302 or a signed statement. In certain situations a signed statement is preferred, such as when a witness is a potential suspect, makes a positive identification of the subject from photographs or personal observation, or where there is reason to believe that the witness may become uncooperative and recant at a later date.

(8) Display appropriate photographs of logical 91 subjects and suspects to the witnesses in an effort to identify the subject at the outset of the investigation. See Section 6-4 of the Legal Handbook For Special Agents entitled "Photographic Identification."

(9) If a stolen getaway vehicle is known or suspected to have been used by the subject, it will often be abandoned by the subject shortly thereafter for a switch car. Based on this premise, ensure that efforts are instituted to locate the getaway car for purposes of a search, latent print examination, area neighborhood

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investigation, and a description of the switch car.

(10) Conduct an appropriate crime scene search at the victim bank. See 91-9 of this manual.

(11) If a hoax bomb device is utilized in the commission of a 91 violation, the entire device, or fragments thereof, should be obtained and submitted with all other evidence to the Materials and Devices Unit, Laboratory Division. See Part II, Sections 13-6.7 and 13-16.6, of this manual.

EFFECTIVE: 04/07/97

91-9 CONDUCTING A 91 CRIME SCENE SEARCH

(1) This citation is not intended to be all inclusive. For further details and instructions regarding crime scene searches, latent prints, evidence, and possible examinations of said evidence, refer to this manual, Part II, 13-6.4, entitled "Crime Scene Search," 15-3 entitled "Latent Print Examinations," 15-4, entitled "Submission of Evidence," Section 13, entitled "Laboratory Division Aids to Investigations," Section 5 of the Legal Handbook for Special Agents entitled "Search and Seizure," and the June, 1974, Police Instructor's Bulletin entitled "Crime Scene Search."

(2) There are four cardinal rules that should be followed in every 91 crime scene search.

(a) The first rule is to protect the crime scene to ensure that any possible evidence is not destroyed or contaminated. Protecting the crime scene is a continuous process which must start upon the arrival of the first Special Agent or police officer at the scene and continue until the crime scene search is completed.

(b) The second rule is to obtain the physical evidence legally. In most instances the 91 crime scene will consist of the bank premises and escape route which are not under the legal control of the subject; therefore, his/her consent or a search warrant will not be required to conduct a search of these areas. However, in other specific instances such as those involving the subject's residence, apartment, motel room, place of employment, vehicle, or getaway car, it is necessary to obtain his/her consent or a search warrant before the crime scene search can be legally conducted. It

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should be noted that searches of the above areas conducted incidental to arrest are limited as to area and point of time; therefore, depending on the scope of the intended search, the subject's consent or a search warrant may be necessary.

For further details regarding searches, see Section 5 of the Legal Handbook for Special Agents entitled "Search and Seizure." Whenever the legality of the intended search is in doubt, the Principal Legal Advisor or an appropriate AUSA should be contacted for a legal opinion prior to the search being conducted.

(c) The third rule is to conduct the crime scene search properly. A thorough search should be conducted in order to ensure that any physical evidence is not overlooked. If in doubt regarding whether a particular item is actually physical evidence or has potential evidentiary value, it should be collected and properly marked and preserved for identification and examination purposes.

(d) The fourth rule is to maintain the proper chain of custody of the evidence collected so that it can be successfully introduced into evidence at the time of trial.

(3) After ensuring that the 91 crime scene is protected, the four basic steps in conducting the crime scene search, in essence, are as follows:

(a) Conduct a preliminary survey of the crime scene in order to establish the overall situation and the objectives and the extent of the search.

In bank burglary violations it is essential to describe in complete detail by FD-302 the method by which the subject gained entrance to the bank and the subject's actions within the bank involving the alarm system, safe, vault, cash drawers, safe-deposit boxes, etc.

(b) Photograph the overall crime scene and the physical evidence located therein.

(c) Conduct a latent print examination.

(d) Collect, record, mark, and preserve the physical evidence recovered at the crime scene.

(4) In addition to the collection of the obvious physical evidence in bank burglary violations, efforts should be directed toward the collection of possible "transfer evidence." Whenever two

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surfaces contact each other, there is a partial transfer of material from one to the other. Typical examples are the subject's clothing, shoes, and vehicle picking up building materials when forcibly entering a bank and safe insulation when forcibly entering a safe. Samples of the appropriate possible "transfer evidence" should be collected at the crime scene for future comparison purposes with the subject's or suspect's clothing, shoes, and sweepings from his/her vehicle in an effort to place him/her at the crime scene. 62/172

(5) In regard to bank burglary toolmarks, a thorough examination of the forced entry area and other points of attack within the bank should be conducted in an effort to obtain them for future comparison purposes. The toolmark impressions may be obtained by taking possession of the surrounding area or by casting, whichever is more appropriate.

EFFECTIVE: 10/26/87

91-9.1 Sharing or Delegating Crime Scene Search Responsibilities
with Local Authorities

(1) Under our investigative policy and objectives in 91 violations (see 91-5.3 of this manual), FBI offices having well-trained, effective local law enforcement agencies may share or delegate crime scene search responsibilities mutually agreed upon with local authorities.

(2) It should be noted, however, that any such mutual agreement must ensure that the crime scene search is properly conducted and, if appropriate, all evidence recovered by local authorities is available to your office for transmittal to the FBI Laboratory Division for examination.

(3) In those 91 violations in which FBI investigation is instituted and local authorities do not have the capabilities to conduct a proper crime scene search, the crime scene search should be conducted by or under the direction of the FBI.

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91-10 FBI SURVEILLANCE OF SUBJECTS AND/OR BANKS INVOLVING A
CONTEMPLATED 91 VIOLATION

(1) It is the responsibility of the SAC to formulate a course of action and to decide if Special Agents will conduct a surveillance of a subject and/or a bank when information is developed indicating that a 91 violation will be committed involving a known subject and bank, a known subject and unknown bank, or an unknown subject and known bank.

(2) In making the above decision, the SAC must consider all the available facts, including the source's reliability and the FBI's responsibility to avoid unnecessarily endangering human lives.

(3) Because of the danger factor and potential local violations involved, appropriate local law enforcement agencies and bank officials must be notified of contemplated violations unless a valid reason exists for not making such notification.

(4) If a surveillance will be instituted in a case involving more than one subject, the SAC's plan of operation should include the objective of apprehending the subjects on conspiracy charges before they enter the bank in order to minimize the danger to bank employees and other innocent bystanders.

(5) Where appropriate, investigative efforts should be made to develop conspiracy charges and the facts should be promptly presented to the USA to determine if he/she will authorize the apprehension of the subjects for conspiracy. If not, determine from him/her what further actions by the subjects are necessary in order for him/her to make said authorization. Arrangements should be made with the USA to ensure that he/she can be immediately contacted, if necessary, and advised of pertinent developments.

(6) Due to the high potential for physical violence occurring, if the SAC makes the decision to institute a surveillance of the subject, subjects, and/or bank, the SAC or, in his/her absence from the territory, the ASAC and/or 91 Supervisor must afford personal on-the-scene supervision of the surveillance, and every detail of the operation must be thoroughly planned.

(7) Prior FBIHQ authority is not required to conduct surveillances of subjects and/or banks in contemplated 91 violations.

(8) FBIHQ should be notified beforehand of the surveillance by telephone and/or teletype only if unusual

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circumstances exist or if it appears that the case will receive widespread publicity.

(9) In instances where FBIHQ is not notified beforehand of the surveillance, for reasons set forth above, and the subject or subjects are subsequently arrested, FBIHQ should be notified by telephone and/or teletype depending on the circumstances of the arrest, publicity received, or other unusual factors involved.

(10) As noted in number (3) above, in the absence of a valid reason, local law enforcement agencies must be notified of contemplated violations. In regard to the actual FBI surveillance of the subject and/or bank, consideration should be given to having an appropriate number of local law enforcement representatives, if willing, participate in the surveillance to ensure appropriate liaison and responsibility for any local violations that may occur.

EFFECTIVE: 10/26/87

91-11 EXTORTIONATE DEMANDS RECEIVED BY BANK OFFICIALS FOR BANK FUNDS

EFFECTIVE: 10/26/87

91-11.1 Potential FBI Violations

(1) |On November 10, 1986, The President signed into law the "Criminal Law and Procedure Technical Amendments Act of 1986," which amended Title 18, USC, Section 2113(a), to explicitly include bank robberies committed by extortion. The term "extortion" as used in Title 18, USC, Section 2113(a), means obtaining or attempting to obtain property from another person without the other person's consent, induced by the wrongful use of actual or threatened force, violence, or fear. This means that the FBI will have jurisdiction in extortion matters when a bank official receives a threat of physical injury to himself/herself or a member of his/her family through United States mail, by telephone, note, or in person, and is instructed to take bank funds and physically deliver them to an individual off the bank premises or leave them at a designated drop-site. |

(2) In addition, it is a Federal extortion violation if the demand for bank funds is made through the United States mail or by

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interstate telephone call and a Federal kidnaping violation if the bank official or a member of the bank official's family is taken hostage and transported interstate.

(3) It is a bank extortion violation even if the bank official makes no effort to comply with the subject's extortionate threat and demand to physically deliver bank funds to him/her in person, or leave them at a designated drop-site.

(4) It is a bank extortion violation when the bank official attempts to comply with the subject's demand, and the subject does not meet the bank official to take, or attempt to take, the bank funds from his/her person or presence, or does not take the bank funds which were placed at the designated drop-site.

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EFFECTIVE: 10/26/87

91-11.2 Decisions to Make the Payoff and to Cover the Payoff

(1) In some cases the victim bank official will comply with the subject's demand for bank funds without first notifying his/her bank or the FBI; therefore, the decision whether to make or cover the payoff cannot be made and the FBI will not be able to promptly institute its investigation beforehand.

(2) In the above situation, especially when a hostage was not taken, the possibility that the bank official stole the bank funds rather than the subjects should not be overlooked.

(3) In those instances where the victim bank and the FBI are notified beforehand by the bank official of the subject's demand for bank funds, certain factors will have to be closely considered before a decision can be made regarding whether the subject's demand should be complied with by the bank and whether the payoff should be

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covered by the FBI.

(4) The most important consideration regarding the above decisions is the safety of the victim bank official and/or family member. The degree of danger will vary from case to case and must be assessed accordingly in reaching a decision. For example, in a case where the subject is actually holding the bank official's spouse hostage and threatens to kill the hostage unless subject's demands are met, it is obvious that the danger factor is far more real and imminent than in a nonhostage case where the subject threatens to kill the bank official and/or spouse if official fails to comply with subject's demands.

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(6) The decision whether or not to pay the subject's demand is the bank's decision to make and will be influenced by the danger factor



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EFFECTIVE: 10/26/87

91-11.3 Extortion Matters - Investigative Techniques

EFFECTIVE: 10/26/87

91-11.3.1

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91-11.3.2

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EFFECTIVE: 10/26/87

91-11.3.3 [REDACTED]

[REDACTED]

EFFECTIVE: 10/26/87

91-12 OFFICE OF ORIGIN (OO) NOTIFICATION TO FBIHQ, SURROUNDING
OFFICES, AND OTHER OFFICES OF 91 AND 192C VIOLATIONS
BY FD-430 AND TELETYPE

EFFECTIVE: 10/26/87

91-12.1 Notification to FBIHQ (See MIOG, Part I, 15-4(9),
87-5.3.2, & 192-11.1; MAOP, Part II, 9-6.)

(1) FBIHQ shall be notified of every bank robbery, bank
burglary, bank larceny and bank extortion violation within 30 working
days of the offense by FD-430 with available bank surveillance camera
photographs attached.

(2) The above notification to FBIHQ should not be delayed
beyond the 30-day working period awaiting processing of the
photographs, which may be forwarded afterward by a separate
communication or by routing slip.

(3) In addition, FBIHQ should be promptly notified by
telephone and/or teletype in 91 cases of unusual interest such as

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those in which a shooting occurs, a hostage is taken, a large loss is sustained, or where good judgment dictates. FBIHQ should also be advised of all subsequent major developments in these cases by summary teletype. The initial teletype notification to FBIHQ does not eliminate the necessity of the FD-430 submission to FBIHQ within 30 working days.

(4) The FD-430 must contain the OO file number.

(5) After the initial FD-430 submission to FBIHQ, if it is determined that no FBI violation actually occurred, the OO should submit a supplemental FD-430 in order to delete the violation from the bank crime statistics maintained at FBIHQ.

(6) Title changes may be made by supplemental FD-430 as long as the basis for the change is set forth thereon. When an unidentified subject who is included in the National Bank Robbery Album (NABRA) is identified, cancellation of the NABRA circular can be made by checking the appropriate box located on Form FD-430 and by including a request for FBIHQ to cancel the NABRA in an administrative page attached to the supplemental FD-430 (see 91-19 for further details regarding the issuance and cancellation of NABRA circulars).

(7) Cases may be opened and closed upon the submission of the FD-430 to FBIHQ under certain appropriate circumstances such as when a strong local interest is dominant and the USA declines prosecution at the outset of the investigation. This closing procedure does not eliminate the necessity to comply with the FBI's investigative response policy in 91 matters (see 91-5.1), and those investigative results obtained are to be recorded by FD-302 or investigative insert and maintained in the field office file for possible future needs. (See MAOP, Part II, 2-5.2.4.)

(8) An FD-430 with the solution portion completed must be submitted before solution credit can be recorded at FBIHQ. Solution credit may be claimed only in those cases in which all subjects involved have been identified. When a case is solved after the initial FD-430 submission, submit a supplemental FD-430 with only the solution portion completed. Violation and solution data submitted by this form will be furnished to each field office at the close of the fiscal year for verification of this information recorded at FBIHQ.

(9) It is imperative that all FD-430 entries are correct since FBIHQ disseminates pertinent data from these forms to the Federal financial regulatory agencies, the American Bankers Association, and other qualified recipients who are concerned with

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crimes against financial institutions.

(10) In all Hobbs Act - Armored Carrier cases, an FD-430 must be submitted within 30 working days of the offense. See Part I, Section 192-11.1 of this manual for details.

EFFECTIVE: 11/30/93

91-12.2 Notification to Surrounding Offices and Other Offices

(1) In addition to notifying FBIHQ of all 91 violations, the OO shall determine if regional or other field office notification is necessary. Absent photographs of value, distinguishing physical characteristics or a distinguishable MO, there should be no regional distribution of FD-430's. Additionally, there should be no regional distribution of FD-430's, the purposes of which are to change titles or reflect other administrative changes. Such administrative FD-430's should be submitted to FBIHQ only. (See MIOG, Part I, 15-4(9) & 192-11.2.)

(2) Depending on the urgency of the case and the need for specific and immediate investigation, initial notification to the above offices may be made by telephone, teletype, or FD-430.

(3) If initial notification is made to surrounding and other appropriate offices by telephone and/or teletype, these offices should also receive copies of the FD-430 which must be prepared by the OO for transmittal to FBIHQ within 30 working days of the offense.

(4) Teletype notification should include a succinct summary of the offense, the modus operandi (MO) utilized, a description of the subject, specific investigative leads, and any required caution statement. Bank camera surveillance photographs and bank burglary crime scene photographs should be forwarded by FD-430, a separate cover communication, or by routing slip. (See MIOG, Part I, 91-16(4)(b).)

(5) Initial notification by FD-430 should not be delayed beyond 30 working days awaiting processing of the photographs which may be forwarded afterward by a separate cover communication or by routing slip.

(6) Appropriate general leads, such as comparing instant

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MO for similar bank robberies or contacting informants and local law enforcement agencies for information of value, may be set forth in the FD-430.

(7) The FD-430 should contain a statement that only positive information need be reported to the OO by receiving offices.

(8) The FBIHQ and field FD-430 copies should have a second page attached setting forth a detailed narrative summary of the offense in LHM format suitable for dissemination. The decision to disseminate the narrative page to other law enforcement agencies and other authorized institutions or individuals is left to the discretion of the receiving offices.

(9) Since FD-430s do not contain specific investigative leads for auxiliary offices, and the leads set forth, if any, are general in nature as set forth above, they should be filed in the pertinent administrative control files by the receiving offices. It is suggested that the serials be filed by date of bank robbery, state and city in that order. It is not necessary to serialize this mail if filed in a logical, consistent order nor is it necessary to index the title of the communication unless the field office firmly believes it is necessary. This is an exception to the mandatory indexing case title guidelines. The exception is justified due to the informational nature of the FD-430 and the automated availability of the Field Office Information Management System Alternate Office Index Search capability in all FBI offices. (See MAOP, Part II, 2-3.3.1(1).)

EFFECTIVE: 11/30/93

91-13 BANK ROBBERY, BANK BURGLARY, BANK LARCENY AND BANK
EXTORTION LOOT

EFFECTIVE: 04/19/91

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91-13.1 Establish Loss By Bank Officer

The bank officer, who is competent to testify regarding the bank's ownership, possession, custody, or control of the stolen property, should be interviewed in order to establish the loss by a bank audit and obtain a complete list and description of the stolen property.

EFFECTIVE: 04/19/91

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91-13.2 [REDACTED]

(1) [REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(2) [REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

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XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

2 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☒ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

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- ☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
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7506, pages 91-31, and 91-32

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(4)

(5) For complete details regarding stop notices and their administrative handling, see Part II, 10-7, of this manual.

EFFECTIVE: 07/23/90

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EFFECTIVE: 08/27/90

91-13.7

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[REDACTED]

(4) [REDACTED]

(5) In all instances, the circular letter must include the following:

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

(d) A caution statement, if appropriate, regarding the subject and a statement that no action should be taken which would endanger anyone's safety.

(e) A statement that if any positive information is developed, immediately contact the nearest office of the FBI, the telephone number of which may be found on the first page of your telephone directory.

(f) For complete details regarding circular letters, see Part II, 21-24, of this manual.

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91-13.8 Counting and Reporting Recovered Bank Loot Currency

(1) The exact circumstances surrounding the recovery of known or suspected bank loot must be accurately recorded by the recovering Agent or Agents on an FD-302.

(2) In regard to the recovery of currency, it must be counted separately and independently by two Special Agents to assure the accuracy of the total and recorded on an FD-302. The fact that the currency was counted separately and independently by two Special Agents should be set forth in the body of the FD-302.

(3) The above recovery and tabulation may be recorded on one FD-302, provided that the same two Agents made the recovery and tabulation. If the recovering and tabulating Agents are not identical, two separate FD-302s should be utilized to record these events.

(4) The FD-302 setting forth the tabulation of the currency should be set up in column fashion with headings for denominations, serial numbers, series year, and bank of issue and reported according to the denomination sums in descending order.

(5) Any adding machine tapes utilized to tabulate the currency should be initialed and dated by the counting Agents and retained in the 1-A section of the case file.

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(8) For additional information regarding recovered bank

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loot involving its custody, storage, turning over to the U.S. Marshal, obtaining receipts, etc., see MAOP, Part II, 2-4.4.14, entitled "Handling of Evidence and Property by the U.S. Marshal"; 2-4.4.8, entitled "Valuable Evidence," and 2-4.4.12, entitled "Charge-Out Procedures - Evidentiary Property."

EFFECTIVE: 10/16/96

91-14 NEWS MEDIA INQUIRIES POLICY

(1) The FBI's news media inquiries policy is in strict compliance with instructions issued by DOJ concerning the release of information in criminal and civil matters. These instructions are contained in Title 28, Section 50.2, of the Code of Federal Regulations (CFR).

(2) This 91 citation is not intended to be all inclusive. For complete details regarding this topic, including a restatement of the above CFR instructions, see MAOP, Part II, 5-1, entitled "Policy and Guidelines for Relations with News Media," and 5-2, entitled "Contacts with News Media."

(3) Routine 91 press inquiries received at the field office regarding the investigation should be referred to and answered by either the SAC, ASAC, or media representative within permissible guidelines.

(4) If an investigation has been instituted, the news media inquiries should be answered by advising the FBI is investigating the case with appropriate resources and would appreciate it if they will refer any person with pertinent information directly to the FBI or to the local police.

(5) In accordance with departmental policy, no information should be volunteered at any time to the news media concerning the amount of loot obtained. Specific questions by the news media concerning the amount of loot taken may be answered following the arrest or indictment of a subject or subjects for violation of the BRICS.

(6) Subject to specific limitations imposed by law or court rule or order, under Title 28, Section 50.2, CFR, it is permissible to disclose the following information:

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"A. The Defendant's name, age, residence, employment, marital status, and similar background information.

"B. The substance of the text of the charge contained in the complaint, indictment, or information.

"C. The identity of the investigating and/or arresting agency and the length or scope of the investigation.

"D. The circumstances immediately surrounding an arrest, including the time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of items seized at the time of arrest.

"E. Disclosures should include only incontrovertible, factual matters, and should not include subjective observations. In addition, where background information or facts relating to the circumstances of an arrest or investigation would be highly prejudicial or where the release thereof would serve no law enforcement function, such information should not be made public."

(7) The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function; therefore, under Title 28, Section 50.2, CFR, the following information should not be disclosed:

"A. Observations about a subject's character.

"B. Statements, admissions, confessions, or alibis attributed to a subject or his refusal or failure to make a statement.

"C. Reference to investigative procedures such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests, or the refusal by the defendant to submit to such tests or examinations.

"D. Statements concerning the identity, testimony, or credibility of prospective witnesses.

"E. Statements concerning evidence or legal arguments in the case, whether or not it is anticipated that such evidence or arguments will be used at trial.

"F. Any opinion as to the subject's guilt, the possibility of a plea of guilty to the offense charged, or the

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possibility of a plea to a lesser offense."

(8) Only SACs, ASACs, and media representatives should participate in question-and-answer interviews with representatives of any news media at the scenes of 91 violations and apprehensions.

(9) Frequently, press inquiries will be received by Special Agents at the scene of a 91 violation or arrest. Those Special Agents, who are so approached, may make the following responses:

(a) Identify themselves as a Special Agent of the FBI.

(b) Furnish the name of the field office to which they are assigned.

(c) State the general nature of the investigative operation, such as, "We are here to investigate the bank robbery."

(d) Except in emergency situations, requests for additional information should be handled by courteously referring the news media to the field office for response by the SAC, ASAC, or media representative.

(e) In an emergency situation, a Special Agent may relay a reporter's questions to the SAC by telephone or radio, and the SAC's response thereto can be furnished to the reporter in the SAC's name by a Special Agent.

(10) The instructions contained in this 91 citation apply solely to contacts with members of the news media and in no way affect circularization of facts concerning a given violation to the law enforcement community, banks, or to other business establishments should this course of action be deemed necessary.

EFFECTIVE: 10/26/87

91-15 BANK ROBBERY - BANK BURGLARY SUSPECTS PROGRAM (BRBBSP)

EFFECTIVE: 10/26/87

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91-15.1 Purpose and Objective

(1) The BRBBSP was instituted on 8/27/63 for the purpose of identifying and developing information on potential bank robbers and bank burglars. The objective of this program is to maintain this information in a current status, thereby enabling a field office to immediately consider these individuals as potential suspects when an unknown subject bank robbery or bank burglary is committed.

(2) While not mandatory, all offices are encouraged to maintain a BRBBSP. This program should be instituted by any office which is experiencing difficulty with unsolved bank robberies and bank burglaries since experience has shown that such offices have benefitted from utilizing this program.

EFFECTIVE: 10/26/87

91-15.2 Effect of the Attorney General's Guidelines on Criminal Investigations of Individuals and Organizations on the BRBBP

(1) Prior to the passage of the above guidelines on 12/22/80, the two sources for opening BRBBSP cases were the identification of a potential bank robbery or bank burglary suspect through routine independent investigation and maintaining liaison with the Bureau of Prisons (BOP), through which BRBBSP cases were opened on inmates who were released from custody after being convicted of bank robbery or bank burglary.

(2) The current Attorney General's guidelines do not prohibit the above first source of BRBBSP cases since the routine independent FBI investigation provides the "reasonable indication" basis for conducting a general criminal investigation (GCI) or the lesser basis for conducting a preliminary inquiry (PI) under this program. However, the above Attorney General's guidelines will prohibit opening a BRBBSP case and conducting either a GCI or PI on a BOP releasee since the mere fact that he/she has been previously convicted of bank robbery or bank burglary does not provide the "reasonable indication" or the lesser basis necessary for conducting a GCI or a PI.

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EFFECTIVE: 10/26/87

91-15.3 Opening BRBBSP Cases

(1) After identifying a bank robbery, bank burglary or larceny suspect through routine independent investigation, an individual 91D case file should be opened and, depending on the circumstances, either a GCI or PI should be conducted.

(2) The objective of the GCI or PI, in addition to further identifying, developing, and maintaining information on a potential bank robber or bank burglar, is to determine if he/she is, in fact, involved in a prior unsolved bank robbery or bank burglary or is planning to commit such an offense.

(3) If deemed appropriate, a bank robbery, bank burglary or larceny suspect in this program may be interviewed during the course of the GCI or PI.

(4) The 91D case file should be utilized to record the suspect's complete description, employment, residence, associates, hangouts, modus operandi, cars, recent photographs, identification record, interview results, and other pertinent data.

(5) During the investigations of these suspects, the possibility of developing informants able to provide information regarding 91 cases should be pursued.

(6) During these investigations, efforts should be made to obtain the suspect's major case prints through logical sources in order that they may be transmitted to the Latent Fingerprint Section, Laboratory Division for inclusion in the suspect's identification files.

(7) For purposes of correctly reporting and maintaining investigative results and recording TURK and MAR data, if the above GCI or PI identifies the bank robbery, bank burglary or larceny suspect as being involved in a prior unsolved bank robbery, bank burglary or larceny, the 91D suspect case file should be closed and the remainder of the investigation should be reported in the existing 91A*, 91B*, or 91C case file. If the above GCI and PI determines the bank robbery, bank burglary or larceny suspect is planning or conspiring to commit an identifiable bank robbery, bank burglary or larceny, the 91D suspect case file should be closed and

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all further investigation should be reported in the new 91A*, 91B*, or 91C case file.

EFFECTIVE: 09/24/93

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(3) This method of operation will ensure that the FBI continues to receive the above information for possible future lead value; and upon commission of a bank robbery or bank burglary within your territory, said individuals may be considered as possible suspects, if appropriate.

(4) If subsequent information is received indicating [REDACTED] an individual 91A*, 91B*, or 91C case file should be opened and, depending on the circumstances, either a GCI or PI should be conducted.

EFFECTIVE: 08/27/90

91-15.5 | Bank Robbery - Bank Burglary Album

(1) Each office should maintain an office bank robbery - bank burglary album to be utilized as an investigative aid whenever deemed appropriate.

(2) This album should contain photographs, descriptions, and background data of known or suspected bank robbers and bank burglars who reside within or travel into an office's territory. This album should be divided into two sections in order to separate the

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bank robbers from the bank burglars.

(3) Periodic reviews of this album should be made in order that individuals no longer believed to be logically included may be removed under authority of the SAC or his/her designated representative.

EFFECTIVE: 08/27/90

91-15.6 Notifying FBIHQ of BRBBSP Accomplishments

In order for FBIHQ to fully evaluate the fieldwide results of this program, all participating offices shall furnish the following information by airtel as part of the annual Violent Crimes Subprogram Resource Management and Allocation submission.

(1) The number of bank robbery and bank burglary suspects currently under GCI and PI investigation.

(2) A brief summary of cases solved or other accomplishments achieved as a result of this program since the previous FBIHQ notification.

(3) The number of informants developed as a result of this program since the last FBIHQ notification.

(4) The above informants' accomplishments in 91 cases and other FBI, Federal, or local violations.

EFFECTIVE: 08/27/90

91-16 BANK SURVEILLANCE CAMERA PHOTOGRAPHS

(1) The Bank Protection Act of 1968 does not require financial institutions covered under the BRICS to install surveillance cameras and said installations are discretionary on their part.

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[REDACTED] b2/b7E

(3) Bank surveillance camera photographs of the bank robber are important investigative tools since they can be utilized to assist in the subject's identification. In addition, these photographs will record the type of weapon used and the clothing worn by the subject and if recovered from his/her possession may assist in his/her identification. In the case of clothing, if certain unique patterns or defects are recorded in the photographs, the recovery of the clothing and its examination by the FBI Laboratory may result in a positive identification. [REDACTED]

(4) In an effort to identify the subject, consideration should be given to wide dissemination of the bank surveillance camera photographs by:

- (a) local or regional news media sources;
- (b) FD-430, see 91-12.2;
- (c) NABRA circulars, see 91-19; and
- (d) circular letters, see Part II, 21-24, of this

manual.

(5) [REDACTED]

(a) Interested offices should transmit 35 copies of the unknown subject's photograph to the Albany Office, Attention: Bank Robbery Coordinator, setting forth the above lead. The back of the photographs should list the case title, field office file number, and a physical description of the unknown subject. One copy of the photograph will be retained by the Albany Office [REDACTED]

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(b) Any identification or leads developed will be forwarded to the Albany Office [REDACTED]. The Albany Office will forward any results received to the OO who will have the responsibility of reviewing the information furnished and setting out any leads deemed appropriate.

EFFECTIVE: 08/27/90

| 91-17 | SCIENTIFIC EXAMINATION OF DEMAND NOTES |

EFFECTIVE: 10/26/87

| 91-17.1 | Bank Robbery Note File |

EFFECTIVE: 10/26/87

91-17.1.1 Background

(1) The BRNF is maintained in the Investigative Operations and Support Section of the FBI Laboratory. It is comprised of a computerized/microfiche file as well as a visual file made up of photographs of handwritten, hand printed, typewritten, and miscellaneous notes which have been used in bank robbery cases throughout the country.

(2) Statistics maintained by FBIHQ have established that demand note bank robberies (DNBRs) constitute a significant percentage of all bank robberies committed each year. [REDACTED]

b2/b7E

EFFECTIVE: 03/21/95

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||91-17.1.2| Purpose

(1) The purpose of the BRNF is to identify or possibly associate a demand note used in one bank robbery with demand notes used in other bank robberies thereby identifying or associating the subject.

(2) In addition, handwriting samples obtained from subjects or suspects known or suspected of committing DNBRs may be submitted to FBIHQ, Attention: FBI Laboratory, BRNF, by FD-598, entitled "Request for Bank Robbery Note File Examination," for a search through the BRNF in an effort to effect an identification or possible association.

EFFECTIVE: 10/26/87

||91-17.1.3| Policy

The effectiveness of the BRNF is dependent upon all field offices submitting all bank robbery demand notes (BRDNs) recovered by the FBI or local authorities to FBIHQ for searching and comparison purposes. To ensure that the FBI will obtain maximum investigative benefit from the BRNF, the following policy should be strictly complied with:

(1) The originals of all BRDNs that are recovered by the FBI shall be promptly submitted to FBIHQ, Attention: FBI Laboratory, BRNF, by FD-598 for a search through the BRNF with a request for a latent fingerprint examination.

(2) If local authorities have evidentiary custody of the demand note and will conduct their own latent fingerprint examination, the following submission procedure should be followed. Since their latent fingerprint examination will obliterate the demand note, a photographic copy with scale included or a legible Xerox copy, as a last resort, should be obtained prior to their latent fingerprint examination being conducted and promptly submitted by FD-598 to FBIHQ, Attention: FBI Laboratory, BRNF, for a search through the BRNF.

(3) The FD-430, used by the OO to report all 91 violations to FBIHQ, contains information blocks to indicate if a demand note was used in a bank robbery, if it was recovered by the FBI or local authorities and, if recovered, whether it was submitted to FBIHQ for a search through the BRNF. If the FD-430 reflects that a

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recovered demand note was not submitted to FBIHQ, the OO will be requested to submit the original demand note, if recovered by the FBI, or a photographic or Xerox copy, if recovered and retained by local authorities, for examination.

(4) FBIHQ will maintain a record of nonsubmission of recovered BRDNs in order to ascertain individual field office compliance with this policy.

(5) BRDNs, either originals or copies, should not be submitted by FD-430 for search through the BRNF since the FD-598 has been expressly designed for this purpose. Information copies of BRDNs may be attached to FBIHQ and field copies of the FD-430 to assist in assessing the subject's 91 activity.

EFFECTIVE: 10/26/87

91-17.1.4 Submission of BRDNs

(1) In order to prevent intermingling of evidence and to facilitate the BRNF search and a latent fingerprint examination, if requested, a separate transmitting FD-598 should be used for each demand note rather than submitting several demand notes by one communication with multiple case titles.

(2) The submitted demand note will be searched through the BRNF in an effort to effect an identification or possible association. Original demand notes will be returned to the contributing office; however, a photographic copy will be retained in the BRNF for future comparison purposes. Photographic and Xerox copies of demand notes submitted, unless advised to the contrary by the submitting office, will be retained by the FBI Laboratory.

(3) If an office desires a comparison of a demand note being submitted with a demand note or notes used in other specific bank robbery cases, it should make said request and identify the demand notes by case title in the body of the transmitting FD-598.

(4) If, based on the above request, the FBI Laboratory determines that the submitted BRDN was prepared by the writer of the above-suggested BRDNs on file in the BRNF, the search will be terminated. However, if the above search proves negative, the submitted demand note will be searched through the appropriate remainder of the BRNF in an effort to effect an identification or

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possible association.

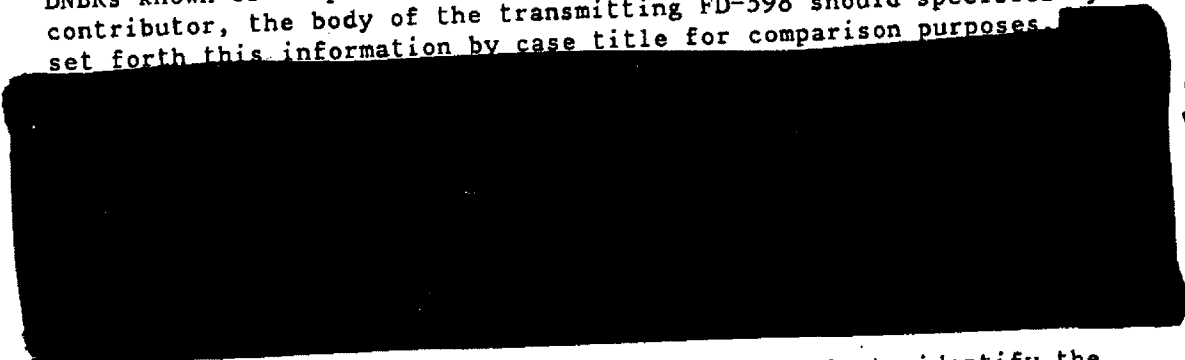
(5) For additional instructions regarding demand note submissions, refer to the instructions section appearing on the reverse side of the FD-598.

EFFECTIVE: 10/26/87

[91-17.1.5] Submission of Handwriting Samples Obtained from Subjects or Suspects Known or Suspected of Committing Demand Note Bank Robberies (DNBRs)

(1) In the above-captioned situation, complete samples should be obtained in accordance with existing instructions (see Part II, 13-17.2.3, and Part I, 87-5.2, of this manual).

(2) If the submitting office is able to identify the DNBRs known or suspected to have been committed by the handwriting contributor, the body of the transmitting FD-598 should specifically set forth this information by case title for comparison purposes.



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(3) If the submitting office is unable to identify the specific DNBRs known or suspected to have been committed by the handwriting contributor, this fact should be set forth in the body of the transmitting FD-598. In these instances, a portion of the submitted handwriting samples should contain examples of demand notes with the type of language commonly utilized by these subjects. The submitted handwriting samples will be searched through the entire BRNF, where feasible, in an effort to effect an identification or possible association.

(4) In regard to the situation set forth in number (2) above, if the FBI Laboratory determines that the specified BRDNs on file in the BRNF were in fact prepared by the handwriting contributor, the search will be terminated. However, if the above search proves

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negative, the submitted handwriting samples will be searched through the appropriate remainder of the BRNF in an effort to effect an identification or possible association.

EFFECTIVE: 10/26/87

91-17.1.6

b2/b7E

EFFECTIVE: 05/26/89

91-17.2 Anonymous Letter File (ALF)

All bank extortion letters should be searched through the ALF. For details regarding the ALF, refer to Part II, Section 13-17.6(2) of this manual, entitled "Anonymous Letter File."

EFFECTIVE: 05/26/89

91-17.3 Extortionate Notes or Letters Received by Bank Officials and/or Family Members

(1) The original extortion note or letter is to be promptly forwarded by airtel to FBIHQ, Attention: Laboratory Division, Investigative Operations and Support Section and Latent Fingerprint Section, for examination. A copy of the note or letter should also be designated for the Violent Crimes/Fugitive Unit, Criminal Investigative Division (CID). The cover airtel should briefly set forth the facts of the case, describe any enclosures, and specifically request the types of Laboratory Division examinations desired. Refer to Part II, Section 13, of this manual, entitled "Laboratory Division Aids to Investigations," and Part II, Section 15, of this manual, entitled "Latent Fingerprint Identification," for the

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| types of analyses available.

(2) Identification of those who have handled the extortion note or letter is necessary so that elimination fingerprints can be obtained for later reference. The unavoidable handling of the letter or document before it comes into the possession of the field office should not preclude the requesting of latent fingerprint examinations. However, appropriate handling instructions should be given to those who may receive subsequent letters from the extortionist so that minimal handling of the evidence occurs.

| (3) |Deleted|

(4) The medium by which an extortionate message is conveyed to the victim may include telephone calls, tape recordings and videotapes. Analyses can be conducted by the |Information Resources| Division on these types of evidence. Refer to Part II, 16-8, of this manual, for details of examination which can be conducted on this evidence.

EFFECTIVE: 03/21/95

| 91-18 AUTOMATED LATENT|FINGERPRINT SEARCH|

| This 91 citation regarding the Automated Latent|Fingerprint Search (ALFS), |the National Unidentified Latent File (NULF), and Major Case Prints (MCP) is directed toward bank robbery (BR), bank burglary (BB), bank larceny (BL) and bank extortion (BE) violations and is not intended to be all inclusive. For further details regarding these matters, see Part II, Section 15, of this manual.

EFFECTIVE: 07/21/95

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91-18.1 Automated Latent Fingerprint Search (See MIOG, Part II,
15-2.1.)

(1) The Automated Latent Fingerprint Search (ALFS) which replaces the Automated Latent Search of Automated Identification System - Phase III (ALSA3, accesses the Criminal Justice Information Services Division's automated criminal fingerprint file consisting of fingerprints for over 28 million individuals.

(2) Latent prints previously considered for a search in the ALSA3 system will be given the same consideration in conducting an ALFS.

(3) Not all latent fingerprints are suitable for automated searching. The ability to conduct an ALFS relies on determining the approximate fingerprint classification and finger position of the latent fingerprints and the availability of a physical description of the unknown subject (UNSUB). The physical descriptors which can be utilized in an ALFS include sex, race, age, height, weight, eye color, hair color, place of birth, scars, marks and tattoos. All of these physical descriptors are not necessary to conduct an ALFS, but as much of this information as known should be included in your correspondence. The ALFS may also be restricted to specific geographic regions on a state level and any criminal arrest category for which an arrest offense numeric (AON) is assigned.

(4) It is not necessary to request an ALFS. Each case submitted for a latent fingerprint examination is evaluated by LFPS to determine if it meets the criteria for initiating an ALFS.

(5) The results of the ALFS will be incorporated in the LFPS report submitted to the office requesting fingerprint information.

EFFECTIVE: 07/21/95

91-18.1.1 Moved to 91-18.1

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EFFECTIVE: 07/21/95

| 91-18.1.2 | Deleted |

EFFECTIVE: 07/21/95

| 91-18.2 National Unidentified Latent File (NULF) | (See MIOG, Part II, 15-2.2.) |

(1) The NULF is maintained in the LFPS and is broken down into 17 separate federal crime categories, four of which are BR, BB, BL, and all extortions.

(2) The BR, BB, BL and extortion categories contain photographs of the unidentified latent prints submitted by the field to the LFPS for examination or developed by the LFPS from evidence submitted in 91 cases having at least one unknown subject. They are automatically filed in the appropriate crime category of the NULF and do not require a specific request by the field for inclusion. Once a latent print is identified, it is removed from the NULF. In keeping with the Statute of Limitations, they are also removed from the NULF five years after the offense; however, photographs of these latent prints are retained in the evidence section of the Bureau case file.

(3) Classifiable prints in BR, BB, BL and extortion matters are filed by violation and date. The BR and BB categories are further grouped geographically by state. The BR category is grouped by race, sex and geographically by state; however, in some high-volume violation areas, the BR category may be further grouped by field office city.

(4) All classifiable, unidentified latent fingerprints submitted or developed in 91 matters are filed in the NULF under the appropriate crime category.

(5) The field, when submitting unidentified latent prints and/or evidence for examination for latent prints in unknown subject 91 cases, must also enclose MCPs of logical bank employees and

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witnesses for elimination purposes. The LFPS will first compare any latent impressions of value submitted or developed with the elimination MCPs prior to initiating an ALFS. The transmitting communication must contain a description of the unknown subject to assist the LFPS in conducting an ALFS.

(6) Deleted

EFFECTIVE: 07/21/95

91-18.3 Major Case Prints (MCPs)

(1) MCPs consist of recording all friction ridge detail present on the palmar surfaces of the hands and the inner surfaces of the fingers, which includes the extreme sides of the palms and the extreme tips, sides, and lower joints of the fingers. In addition, MCPs must include a fully rolled set of fingerprints recorded on a fingerprint card (FD-249). The MCPs must be identified, dated, and bear the signature of the individual recording them.

(2) All BR, BB, BL and BE subjects should be major case printed when apprehended by the FBI. If apprehended and/or fingerprinted by another law enforcement agency, arrangements should be made to have the subject major case printed and the original or extra copy of his/her MCPs made available to the FBI.

(3) The fingerprint card portion of a subject's MCPs, in addition to all the necessary descriptive data, should set forth the substantive charge--BR, BB, BL or BE--and not merely the United States Code, title, and section reference.

(4) If a subject's MCPs were actually recorded by another law enforcement agency for the FBI, the fingerprint card should contain the FBI office file number and the "Contributor - ORI" block should reflect the FBI as the contributor.

(5) MCPs must be submitted to the Latent Fingerprint Section, Laboratory Division, by a transmitting communication bearing the appropriate case title and the Bureau file number and latent case number, if known. This communication should set forth the purpose for submitting the MCPs and the specific comparisons desired. MCPs should not be submitted to Criminal Justice Information Services Division by a fingerprint card envelope or a routing slip as is normally done with

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single fingerprint cards in other arrest situations.

(6) If the subject of a 91 case is also a suspect in other 91 violations and a comparison of his/her submitted MCPs with latent prints previously developed in these suspect cases is desired, a specific request with the identities of these cases must be set forth in the transmitting communication by case titles and the Bureau file numbers and latent case numbers, if known.

(7) In addition to the comparison of the subject's MCPs with the unidentified latent impressions submitted in 91 cases in which he/she is carried as a subject and those cases in which he/she is considered a suspect, the LFPS will compare his/her MCPs with the corresponding crime category of the NULF on a geographical basis, where applicable. See 91-18.3(9) for an explanation of a geographical search.

(8) A field request for a search of the subject's MCPs being submitted or his/her fingerprints on file in the main fingerprint file of the Laboratory Division through the NULF should be limited to the subject's specific crime category rather than the combined BR, BB, BL and BE categories since it is highly unlikely that the subject will have committed all four types of violations. If a specific reason exists for requesting a search of the subject's submitted MCPs or his/her fingerprints on file through more than one 91 crime category of the NULF, it must be set forth in the transmitting communication in order to justify said request.

(9) Comparison of a subject's submitted MCPs or fingerprints on file through the NULF on a geographical basis consists of the location where the 91 offense occurred, the location of the subject's arrest and those locations reflected on the subject's FBI record within the last five years. If the field desires the geographical search through the corresponding crime category of the NULF be expanded, it must specifically set forth the locations where the subject has traveled or resided and is suspected of having committed additional unknown 91 violations. (See (7).)

(10) It should be noted that only the MCPs or fingerprints of an individual who is carried as a subject in the title of at least one 91 case will be automatically searched through the corresponding BR, BB, BL or extortion categories of the NULF. The BR and BB categories will be searched further on a geographical basis. The MCPs or fingerprints of an individual who is a 91 suspect only will not be compared with the corresponding crime category or categories of the NULF unless this request is specifically set forth in the

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communication.

EFFECTIVE: 04/08/96

91-19 NATIONAL BANK ROBBERY ALBUM (NABRA) CIRCULARS (See MIOG,
Part I, 91-12.1(6) & 91-16(4)(c).)

(1) When an unsolved FBI 91 matter involves violence, substantial monetary loss, unknown subject(s) that are believed responsible for multiple robberies, and if an identifiable bank surveillance photograph is available, the OO may request FBIHQ to issue a NABRA circular. It is the responsibility of the OO to evaluate the benefits of a NABRA circular. If the OO determines that the issuance of a NABRA circular would not be beneficial, no justification to FBIHQ is necessary. A request for a NABRA circular may be made at any time during the investigation.

(2) In cases involving highly unusual or aggravated circumstances and where no bank surveillance camera photographs are available, the OO may request FBIHQ to consider utilizing artist's conception drawings of the unidentified subject for inclusion in the NABRA program.

(3) A request for a NABRA circular by the OO should be transmitted by airtel to FBIHQ marked Attention: Violent Crimes Unit (VCU), Criminal Investigative Division (CID). The requesting airtel should follow the format of an existing NABRA circular and set forth a brief narrative of the offense, any words spoken by the unknown subject, the text of the demand note, if utilized, the best available description of the unknown subject, and enclose the bank surveillance camera photograph(s) or artist's conception drawing of the unknown subject. In a multiple unknown subjects case, clearly identify the bank surveillance camera photographs and corresponding descriptions as unknown subject number one, unknown subject number two, etc.

(4) Deleted

(5) Upon approval of a NABRA circular request, FBIHQ will assign the unknown subject a NABRA circular number, prepare and print the circular, and distribute same to all offices.

(6) Upon receipt of a NABRA circular, receiving auxiliary

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offices should include it in the NABRA. Do not index the victim bank in the office indices or open an individual substantive case in the absence of specific leads.

(7) In order for this program to be effective, it is essential that all Special Agents working 91 cases have copies of NABRA circulars available for display to witnesses and informants.

(8) The designation "NABRA" and its corresponding number should be carried in the case title in all communications as long as the NABRA circular is outstanding.

(9) The VCU, CID, FBIHQ, should be advised by airtel of any positive results or accomplishments obtained through utilization of NABRA circulars.

(10) When a NABRA subject is identified, his/her circular will be deleted from the NABRA. It is the responsibility of the OO to notify the VCU, CID, FBIHQ, when a NABRA unknown subject is identified and request the NABRA circular be canceled. Upon receipt of said request, the NABRA circular will be canceled and all offices notified by FBIHQ. Form FD-430 may be used to cancel a NABRA circular by checking the appropriate box located on the form and by attaching an administrative page requesting FBIHQ to cancel the circular. Ensure the NABRA circular number is identified and full subject description given. Also advise if NABRA aided in identification of subject. If cancellation of NABRA circular coincides with solution of case, ensure solution portion of Form FD-430 is properly completed.

(11) When a NABRA circular request is pending approval at FBIHQ and the unknown subject is identified, it is the responsibility of the OO to immediately notify the VCU, CID, FBIHQ, to discontinue consideration.

(12) In those instances where the Statute of Limitations has expired for a NABRA subject, FBIHQ will cancel his/her NABRA circular and notify all offices of the cancellation by letter.

EFFECTIVE: 09/07/93

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91-20 FUGITIVE BANK ROBBERY (FUBANK) CIRCULARS

(1) When a 91 subject is in a fugitive status for 15 days and an identifiable photograph is available, the OO shall request FBIHQ to issue a FUBANK circular.

(2) A request for a FUBANK circular by the OO should be transmitted by airtel to FBIHQ marked Attention: Violent Crimes Unit, Criminal Investigative Division. The requesting airtel should follow the format of an existing FUBANK circular and set forth a brief narrative of the offense, a description of the subject, details regarding Federal process and enclose the subject's photograph(s).

(3) If special circumstances indicate the desirability of requesting a FUBANK circular prior to the subject being in a fugitive status for 15 days, or if the OO is of the opinion that a qualifying subject should not be included in the FUBANK circular program, advise the VCU, CID, FBIHQ, accordingly by airtel setting forth specific reasons.

(4) Upon approval of a FUBANK circular request, FBIHQ will assign the subject a FUBANK circular number, prepare and print the circular, and distribute same to all offices.

(5) Upon receipt of a FUBANK circular, receiving auxiliary offices should index it to the office indices and maintain a copy in a control file established for that purpose rather than opening an individual substantive case in the absence of specific leads.

(6) In order for this program to be effective, it is essential that all Special Agents working 91 cases have copies of FUBANK circulars available for display to witnesses and informants.

(7) The designation "FUBANK" and its designated number should be carried in the case title in all communications as long as the FUBANK circular is outstanding.

(8) The VCU, CID, FBIHQ, should be advised by airtel of any positive results or accomplishments obtained through utilization of FUBANK circulars.

(9) When a FUBANK circular fugitive is apprehended or located, the apprehending or locating office, when notifying FBIHQ of the arrest or locate by teletype, should include a request for the VCU, CID, to cancel the FUBANK circular. Upon receipt of said

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request, the FUBANK circular will be canceled and all offices notified by FBIHQ.

(10) If the apprehending or locating office of the 91 fugitive has not been previously notified by the OO of a pending FUBANK circular request to FBIHQ for the subject, it is the responsibility of the OO to immediately notify the VCU, CID, to discontinue consideration.

EFFECTIVE: 02/16/89

| 91-21 | DELETED |

EFFECTIVE: 08/27/90

91-22 OBTAIN FEDERAL 91 PROCESS PROMPTLY

Obtain Federal BR, BB, BL or BE process as soon as possible after the subject is identified and it is determined that he/she will be prosecuted federally.

EFFECTIVE: 08/27/90

91-23 UNLAWFUL FLIGHT PROCESS ON 91 SUBJECTS

Do not obtain unlawful flight process on BR, BB, BL or BE subjects without first obtaining clearance from FBIHQ.

EFFECTIVE: 08/27/90

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91-24 NOTIFICATION TO LOGICAL OFFICES REGARDING THE APPREHENSION
OF 91 SUBJECTS

(1) Upon apprehension of a BR, BB, BL or BE subject, in addition to the routine required FBIHQ and field notification, the OO, if appropriate, should subsequently advise all logical offices of the subject's arrest with a suggestion that he/she be considered as a possible suspect in connection with their appropriate unsolved 91 violations.

(2) The above communication should include a detailed physical description of the subject, MO utilized, his/her photograph, FBI Identification Record and data regarding his/her employments, residences, and travel itineraries.

(3) If FBIHQ has been previously advised of the subject's apprehension, a copy of the above subsequent communication to logical offices need not be furnished to FBIHQ.

EFFECTIVE: 08/27/90

91-25 NOTIFYING FBIHQ OF UNIQUE MODUS OPERANDI AND UNIQUE
INVESTIGATIVE TECHNIQUES

(1) The details of unique MOs utilized by BR, BB, BL or BE subjects or unique and successful investigative techniques used by Special Agents in BR, BB, BL or BE investigations should be brought to the attention of the Violent Crimes Unit, Criminal Investigative Division, FBIHQ.

(2) The above details should be conveyed to FBIHQ by airtel bearing a dual caption, the substantive 91 case caption followed by the caption "Unique MO and/or Unique Investigative Technique," in order to flag its purpose.

(3) If appropriate, the VCU will incorporate the above MO or investigative technique in the 91 section of this manual and/or notify all offices of the above information by a separate communication for consideration in their 91 investigations.

EFFECTIVE: 02/16/89

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91-26 BANK ROBBERY, BANK BURGLARY, BANK LARCENY AND BANK
EXTORTION REPORTS

This citation is directed toward specific problem areas noted by FBIHQ in 91 reports and is not intended to be all inclusive. For complete details regarding report writing, see MAOP, Part II, 10-14, entitled "Types of Reports"; 10-15, entitled "Prosecutive Report"; 10-17, entitled "Investigative Report (FD-204)"; 10-20, entitled "Nonprosecutive Summary"; and SAC Memorandum 3-78, dated 1/18/78, entitled "Reporting of Investigative Activities."

EFFECTIVE: 02/16/89

91-26.1 Prosecutive Reports

As a practical matter, the vast majority of reports prepared in 91 violations will consist of prosecutive reports. If assistance is needed in assembling a BR, BB, BL or BE prosecutive report, the writer should refer to the above SAC Memorandum and MAOP, Part II, 10-15.2, entitled "Organizing the Prosecutive Report."

EFFECTIVE: 02/16/89

91-26.2 Copies of Prosecutive Reports to FBIHQ

(1) Normally, only one copy of a 91 prosecutive report should be designated for FBIHQ. If for any reason the writer determines it is necessary for FBIHQ to disseminate a copy or copies of the prosecutive report outside the Bureau on a headquarters level, sufficient copies should be designated for the Bureau in order to accomplish said dissemination.

(2) The desired dissemination should be specifically identified for FBIHQ in the "Copies made:" section of the cover page, FD-272, and should also be set forth in the "Copy to:" section of the FD-517.

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91-26.3 Narrative of Offense Section, FD-518

(1) The purpose of the "Narrative of Offense:" section of the FD-518 in a prosecutive report is merely to set forth the jurisdictional basis for the 91 investigation and the facts surrounding the 91 violation in narrative form.

(2) Based on the above specific purpose, the "Narrative of Offense:" section should include the basis for the FBI's jurisdiction and Federal prosecution under the Bank Robbery and Incidental Crimes Statute, a detailed narrative of the subject's modus operandi, and the facts surrounding the offense.

(3) Any caution statement, if appropriate, should be included at the conclusion of this section.

(4) As noted above, other aspects of the 91 investigation, such as prosecutive status, witnesses, and evidence, are not to be included in this section and should be set forth in the appropriate sections of the prosecutive report.

EFFECTIVE: 08/27/90

91-26.4 Basis of FBI Jurisdiction and Evidence for Federal Prosecution in 91 Violation

In essence, the FBI's jurisdiction and the basis for Federal prosecution in BR, BB, BL and BE violations are based on the fact that the victim bank, credit union, or savings and loan association is federally chartered and/or federally insured. In order to establish the FBI's jurisdiction and evidence for subsequent Federal prosecution under the BRICS, the following details should be obtained from the appropriate banking official. This official will be subpoenaed in order to produce this documentary evidence in court for trial purposes.

(1) National Banks. The national bank charter number and the date issued. The FDIC certificate of insurance number and the date issued.

(2) State chartered banks not a member of the FRS but insured by the FDIC. The FDIC certificate of insurance number and the date issued.

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(3) State chartered banks that are members of the FRS and insured by the FDIC. The FDIC certificate of insurance number and the date issued.

(4) Federal credit unions. The Federal credit union charter number and the date of issue and the National Credit Union Administration certificate of insurance number and the date issued.

(5) Federally insured state credit unions. The National Credit Union Administration certificate of insurance number and the date issued.

(6) Federal savings and loan associations (FSLA). The FSLA charter number and date issued and the FDIC certificate of insurance number and the date issued.

(7) State savings and loan associations insured by the FDIC. The FDIC certificate of insurance number and the date issued.

(8) Federal mutual savings banks (FMSB). The FMSB charter number and date issued and the FDIC certificate of insurance number and the date issued.

EFFECTIVE: 08/27/90

91-26.5 Enclosure and Evidence Sections of Prosecutive Reports

It should be noted that a distinction exists between the above two sections, and for purposes of uniformity, the following guidelines should be followed when preparing a 91 prosecutive report.

EFFECTIVE: 08/27/90

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91-26.6 Enclosure Section

The purpose of the enclosure section is to forward enclosures to recipients outside the Bureau by the prosecutive report. This section must set forth a brief narrative describing the enclosures and identify the intended recipient. In most instances, this section will forward evidentiary enclosures to the appropriate USA for prosecutive purposes. Examples of such enclosures are bank camera surveillance photographs, demand notes, and bank burglary crime scene photographs.

EFFECTIVE: 08/27/90

91-26.7 Evidence Section

(1) The evidence section of the prosecutive report merely lists all items of evidence available to the USA which is critical to successful prosecution of the 91 violation. In addition to a brief description of the evidence, this section should identify who obtained it, its physical location and the pages in the prosecutive report where the full details regarding the evidence are set forth.

(2) The evidence section should not be utilized to enclose evidentiary items to the USA or other recipients outside the Bureau since this is the function of the enclosure section.

EFFECTIVE: 08/27/90

91-27 NOTIFICATION TO FBIHQ OF THE FINAL OUTCOME IN 91 CASES

(1) FBIHQ should be advised by closing letter of the final outcome of known subject cases.

(2) Unsolved cases shall be closed under SAC authority by letter to FBIHQ rather than by memorandum to the SAC. This letter should be brief and contain a concise narrative of the offense, any suspects developed, their descriptions, a summary of investigation conducted, and the basis for closing the case.

(3) In those cases where Federal prosecution is declined, a copy of the FBI Case Status Form, FD-320, to the USA confirming his/her declination should be designated for FBIHQ.

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EFFECTIVE: 08/27/90

91-28 CLAIMING LOCAL CONVICTIONS IN 91 VIOLATIONS BY THE
ACCOMPLISHMENT REPORT, FD-515

(1) Prior to 10/1/81, the FBI had conducted investigations involving federal violations under its jurisdiction and had failed to receive conviction credit because in many instances these cases were referred to local authorities for prosecution.

(2) Effective 10/1/81, the Accomplishment Report, FD-515, permitted the field to claim a local conviction in the above instances if the FBI's investigative efforts significantly contributed to successful local prosecution.

(3) A succinct statement setting forth the basis for claiming a local conviction can accompany the FD-515 and be entered in the narrative screen in the Integrated Statistical Reporting and Analysis Application (ISRAA); however, supporting documentation must be included in the case file.

(4) The above justification narrative will be reviewed by the appropriate substantive Supervisory Special Agent, of the submitting field office, for their approval before the local conviction will be recorded in ISRAA.

(5) Local conviction statistics approved and submitted by the field will be identified as a local conviction and will be recorded and reported separately and distinctly from federal convictions by both the field and FBIHQ.

(6) The appropriate substantive field office Supervisory Special Agent will ensure that the proper investigative program and FBI violation is credited when a local conviction is approved by the field and submitted to the ISRAA.

(7) It should be noted, in regard to judging an office's performance in the Violent Crimes Subprogram in general and 91 violations, specifically, a local conviction resulting from a BR, BB, BL or BE violation, which was obtained as a result of a significant FBI investigative contribution, will be considered a positive factor.

(8) For complete details regarding the preparation of an

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Accomplishment Report, FD-515, and claiming local convictions, see the instructions in MAOP, Part II, 3-5.1 and 3-5.2.11.

EFFECTIVE: 07/07/97

91-29 BANK CRIME STATISTICS (BCS) REPORT

(1) The BCS report deals with Bank Robbery, Bank Burglary, Bank Larceny, Bank Extortion, Financial Institution Fraud, and Hobbs Act - Armored Carrier violations. (See 192-17.)

(2) In regard to BR, BB, BL and BE violations, the BCS report provides a wealth of specific information such as, but not limited to, number of violations, MOs utilized, loot taken, loot recovered, violence employed, injuries suffered, deaths incurred, and hostages taken.

(3) Three copies of the BCS report are provided to the field by FBIHQ by cover airtel on an annual basis for the period covering January through December.

(4) The BCS report is also made available by FBIHQ to the DOJ, Federal financial regulatory agencies, bank associations, and other interested and qualified individuals and/or organizations.

(5) The cover airtel and BCS report, when received by the field, should be brought to the attention of all appropriate headquarters city and resident agency supervisory and Agent personnel and media representatives.

(6) In order to achieve the above notification, the cover airtel and BCS report may be reproduced as necessary.

(7) Since the BCS report is a public source document, the field may reproduce and disseminate copies to interested and qualified individuals and/or organizations as good judgment dictates.

(8) In addition, the BCS report may also be used as source material in press releases, speeches, bank conferences, clinics, and seminars.

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EFFECTIVE: 06/26/91

91-30 BANK CONFERENCES, CLINICS, AND SEMINARS (BCCS)

EFFECTIVE: 10/26/87

91-30.1 Purpose and Policy

(1) BCCS are an important part of the FBI's training program to educate employees of banking institutions regarding both internal and external crimes committed against them.

(2) BCCS promote security awareness among banking employees and provide opportunities for planning coordinated investigative efforts between field offices and local law enforcement agencies.

(3) Traditionally, the FBI has maintained a "low profile" regarding suggestions concerning appropriate bank security devices and their use by banking institutions. In view of the continued increase in 91 violations, FBIHQ believes that it has become necessary for the FBI to be more aggressive and positive regarding bank security in their contacts with bank officials.

(4) Offices should stress internal bank security with banking officials contacted during BCCS bringing to their attention the vulnerability of their institutions where previously noted.

(5) Agents conducting BCCS may, if requested, examine the overall security program of a banking institution, comment on the practicality and necessity of security methods being used, and volunteer information as to what, if any, additional security devices or procedures may be necessary.

(6) Agents must be careful during the above contacts and examinations not to identify or endorse a particular item of security-related equipment by name or manufacturer as being the most desirable. This does not preclude Agents from describing a specific device which, through experience, has proven to be beneficial to banking institutions or law enforcement agencies.

(7) By airtel dated 11/18/77, captioned "BCCS," all

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offices were provided a copy of the American Bankers Association (ABA) booklet entitled "The Bankers Guide To Security Training." This booklet was prepared by the ABA to help bank security officers in planning and organizing security training programs for their employees. Agents conducting BCCS should familiarize themselves with this booklet.

EFFECTIVE: 10/26/87

91-31 CHARACTER - BANK ROBBERY (BR), BANK BURGLARY (BB), BANK LARCENY (BL), BANK EXTORTION (BE); BR - RECEIVING, BB - RECEIVING, BL - RECEIVING, BE - RECEIVING

EFFECTIVE: 10/26/87

91-31.1 General

Any 91 violation during which a hoax bomb device was utilized will also carry the character HOAX BOMB in the caption of the case.

EFFECTIVE: 04/29/93

91-32 CLASSIFICATION - 91

EFFECTIVE: 10/26/87

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91-33 91 SUBCLASSIFICATIONS (See MIOG, Introduction, 2-1.6.4;
MAOP, Part II, 3-1.1, 3-1.2.)

The criteria for these subclassifications, which are all
part of the Violent Crimes Subprogram, are as follows:

91A - Bank Robbery

91B - Bank Burglary, Larceny, \$10,000 or more

91C - Bank Burglary, Larceny, under \$10,000

91D - Bank Robbery, Burglary, Larceny Suspect Program

91E - Bank Robbery Clinics, Conferences and Seminars

91F - Bank Extortion

EFFECTIVE: 10/18/95

91-34 VENUE

(1) In BR, BB, BL and BE violations, venue lies in the
jurisdiction where the bank is located.

(2) In receiving violations involving proceeds from a BR,
BB, BL or BE case, venue lies in the jurisdictional district where the
receiving occurred.

EFFECTIVE: 07/23/90

91-35 OFFICE OF ORIGIN

(1) In BR, BB, BL and BE cases, the OO shall be the
office in whose territory the violation occurred.

(2) In BR, BB, BL and BE receiving violations, the OO
shall be the office in whose territory the receiving violation
occurred.

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EFFECTIVE: 07/23/90

91-36 CASE TITLE

All BR, BB, BL and BE case titles should include subject's name and aliases or unknown subject designation, the name of the institution, its location and the date of the violation. In the case of an extortion, use the date the threat was received.

EFFECTIVE: 07/23/90

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SECTION 92. RACKETEERING ENTERPRISE INVESTIGATIONS (REI)

92-1 INTRODUCTION (See MIOG, Part II, 21-28.6(1).)

(1) A Racketeering Enterprise Investigation (REI) is a criminal intelligence investigation which has as its goal the obtaining of information concerning the composition, structure, and activities of a criminal enterprise engaging in crimes which constitute racketeering activities as defined by statute and the Attorney General Guidelines (AGG).|

(2) |Authority for the FBI to conduct REI investigations is promulgated by the AGG. The AGG set forth background, definitions, scope, general procedures, and considerations regarding REIs. Agents and supervisors involved with REIs must familiarize themselves with the AGG.

(3) REIs may be conducted on racketeering enterprises engaged in criminal violations enumerated in the Racketeer Influenced and Corrupt Organizations (RICO) Act (Title 18, USC, Section 1961). However, necessary authority for REI initiation is dependent upon the violation under investigation. Refer to General Authority, Part I, 92-5. |

EFFECTIVE: 03/25/96

92-2 DEFINITIONS

(1) |"Racketeering" is defined in the AGG as any offense including the violation of state law, encompassed by the RICO Act. |

(2) |"Enterprise" is defined by the RICO Statute as "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." Although the RICO statute definition includes an individual, the AGG specifically authorizes the investigation of "two or more persons engaged in ... racketeering activity." The AGG clearly intend for the FBI to target "... entire enterprises, rather than individual participants in specific criminal acts ..." when utilizing the REI. |

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(3) | "Racketeering investigation" is defined by the RICO Act as "any inquiry conducted ... for the purpose of ascertaining ... any violation of this chapter."|

EFFECTIVE: 03/25/96

| 92-3 SCOPE OF INVESTIGATION| (See MIOG, Part I, 92-8.)|

| concerning: | An REI properly initiated may collect information

| (1) | The members of the enterprise and other persons likely to be knowingly acting in the furtherance of racketeering activity, provided that the information concerns such persons' activities on behalf of or in furtherance of the enterprise;|

| (2) | The finances of the enterprise;

| (3) The geographical dimensions of the enterprise; and

| (4) The past and future activities and goals of the enterprise.|

EFFECTIVE: 03/25/96

| 92-3.1 | Deleted|

EFFECTIVE: 03/25/96

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92-4 | RELATED SUBSTANTIVE INVESTIGATIONS |

(1) | Subsequent to the initiation of an REI, information may be developed which serves as the basis for opening a substantive criminal investigation. While any lawful investigative technique may be utilized during an REI, investigations which have progressed from intelligence gathering to evidence gathering should result in the initiation of a substantive case. Any investigation that can reasonably be expected to result in enforcement activity or any court proceedings (e.g., arrests, discovery hearings) should be conducted as a substantive criminal investigation. |

(2) | Upon opening a substantive criminal investigation, an REI may continue to gather intelligence on additional members or other criminal activity of the targeted organization, as the scope of the substantive case may be limited to a relatively small portion of the total criminal activity. The REI may also be closed if deemed appropriate. |

(3) | Case Agents and supervisors are responsible for assuring full compliance with the above-mentioned guidelines and Legal Guidelines as referenced in Part I, Section 92-8 of this manual. |

EFFECTIVE: 03/25/96

92-5 | GENERAL AUTHORITY (See MIOG, Part I, 92-1.) |

(1) | General authority to initiate an REI of a Racketeering Enterprise, the activities of which involve violence, extortion, narcotics, or systemic public corruption, lies with the SAC. There is no provision in the AGG which allows for the delegation of this authority. The SAC's approval must be based upon a written recommendation setting forth facts and circumstances reasonably indicating the existence of a Racketeering Enterprise, and must be followed by notification, in proper format, to the Intelligence Development Unit (IDU), Intelligence Section (IS), Criminal Investigative Division (CID), FBIHQ. The Section Chief, Intelligence Section, shall conduct a programmatic review of the REI. If the REI approved by the SAC is deemed deficient pursuant to the review at FBIHQ, field offices will be instructed either to close the REI or to cease active investigation pending submission of additional

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information. Otherwise, the IDU shall notify the Attorney General of the initiation of the REI as required by the AGG.

(2) Per the AGG, REIs NOT involving violence, extortion, narcotics, or systemic public corruption "may be investigated under this authority only upon a written determination by the Director, concurred in by the Attorney General, that such investigation is justified by exceptional circumstances."

EFFECTIVE: 03/25/96

92-6 INITIATION, RENEWAL, AND REOPENING

(1) Upon SAC approval of an REI, the field office shall submit to FBIHQ, Attention: IDU, IS, CID the following:

(a) Cover electronic communication (EC), in appropriate format, containing the date of SAC approval, basis for the investigation, budget requirements (if necessary), and other administrative matters.

(b) The REI profile and Letterhead Memorandum (LHM) in the proper format. Appropriate format for the cover EC, profile and LHM, is delineated in all SAC airtels dated 1/29/92, entitled "RACKETEERING ENTERPRISE INVESTIGATIONS (REIs), DRUG PROGRAM;" and 8/30/93, entitled "STREET GANG INITIATIVE, RACKETEERING ENTERPRISE INVESTIGATIONS - VCMO." This format applies to all REIs, regardless of the criminal offense or organization under investigation.

(c) The REI profile(s) should be properly captured and indexed into a database. Offices with on-line access to the Criminal Intelligence Support Program (CISP) shall enter the profiles into CISP. Field offices without access to CISP are to forward the REI profiles on a disk to FBIHQ, IS, CID for entry into CISP.

(2) Notification to FBIHQ of an REI initiation, renewal or reopening with all supporting documents (e.g., profiles, LHM) will be submitted within 14 calendar days of receiving SAC authority.

(3) The LHM and/or organizational profile should be suitable for dissemination and must include any available information relating to the group's racketeering activities.

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(4) REIs are approved for periods not to exceed 180 days. Authority for renewal is to be obtained 30 days PRIOR to expiration of the REI. REIs that do not receive SAC authority for renewal prior to the date of expiration must be reopened. Reopening follows the same procedure as initiation. When reopening, the dates of the previous investigation must be reported to FBIHQ on the cover EC.

(5) The 180-day investigative period commences upon the date of SAC approval for initiations or reopenings. Properly authorized renewals commence on the day immediately following the date of expiration.

(6) For REIs requiring the approval of the Director, FBIHQ will notify the field office of the effective date of commencement.

(7) SAC authority does not obviate the requirement of the field office to submit all initiations, renewals, reopenings, and closures to FBIHQ for review and/or Attorney General notification.

(8) The field office shall receive a copy of FBIHQ's notification to DOJ of an REI initiation or reopening. There will be NO notice to the field upon FBIHQ approval of a renewal.

EFFECTIVE: 03/25/96

92-7

TERMINATION OF THE REI

Termination of the REI will be accomplished by notifying FBIHQ, by EC, within 30 days of the closure. The REI may be closed at or prior to the expiration of the 180 day authorization period. The REI may be closed in favor of a substantive investigation or due to lack of intelligence being developed. The EC should contain the reason for closure and a brief summary of the field office's investigative efforts. New information developed since the last reporting period should be reported by a profile. There will be no notification to the field upon FBIHQ receipt of a closure.

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EFFECTIVE: 03/25/96

92-8 | LEGAL GUIDELINES

(1) An REI case may be opened only when facts and circumstances "reasonably indicate" that individuals have been, are currently or will be involved in a "racketeering enterprise." This standard of "reasonable indication" is substantially lower than "probable cause," but does require specific facts and circumstances; a mere "hunch" is insufficient. The above facts should be included in the LHM to FBIHQ setting forth the basis for the REI.

(2) REIs are to be conducted with minimal intrusion consistent with the need to collect information in a timely and effective manner. The seriousness of the alleged criminal activity and the quality of the information indicating the existence of the activity should be among the factors considered in determining the investigation's proper scope and intrusiveness.

(3) The AGG allow for the use of any lawful investigative technique in accordance with Part IV of the AGG. While a particular investigative technique may be lawful, its appropriateness should be scrutinized by the approving supervisor in view of Part IV of the AGG and Part I, 92-3 and 92-4 of MIOG.

(4) The field supervisor has the responsibility of ensuring that the REI is conducted in a manner consistent with Bureau policy and legal and investigative guidelines established in "The Attorney General Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations," set out in its entirety in MIOG, Introduction, 1-3.

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92-9 CHARACTER AND CLASSIFICATION (See MAOP, Part II, 3-1.1 and 3.1.2; MIOG, Part I, 245-4, 281-3.)

(1) Racketeering Enterprise Investigations shall be the character carried in the title of all REI matters. All REIs shall carry the 92 classification. The alpha designators shall be assigned as follows:

- A - LCN AND ITALIAN ORGANIZATIONS
- B - CENTRAL/SOUTH AMERICAN ORGANIZATIONS
- C - MEXICAN ORGANIZATIONS
- D - GANGS
- E - ASIAN ORGANIZATIONS
- F - OTHER MAJOR CRIMINAL ORGANIZATIONS
- G - AFRICAN ORGANIZATIONS
- H - EURASIAN, EASTERN EUROPEAN and RUSSIAN ORGANIZATIONS
- I - CARIBBEAN ORGANIZATIONS
- || J - ALIEN SMUGGLING ORGANIZATIONS |

(2) The following case files shall be opened:

92-(field office designator)-0: REI CONTROL FILE

92-(field office designator)-00: REI ADMINISTRATIVE MATTERS

Appropriate subfiles may be opened to address specific needs of the field office. The subfile letter should reflect the appropriate alpha designator for that program.

Example:

92-HQ-0 REI CONTROL FILE
Sub G African Organizations
G1 Unaddressed work
G2 AO Leads

In this example, the office (HQ) REI control file has subfiles to address different control file matters. Sub G is consistent with the G alpha designator for African Organizations. Sub G1 contains

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unaddressed work relating to African Organizations. Sub G2 would contain leads from other offices regarding African Organizations.

(3) This subfile structure is set forth for the 92-0 and 92-00 files, and is not intended to replace the subfile structure of active 92 cases.

(4) There are to be no other 92 cases which are not active REIs.

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SECTION 93. ASCERTAINING FINANCIAL ABILITY

93-1 PURPOSE

To ascertain a person's ability to pay a claim, fine, or judgment obtained against him/her by U.S. Government.

EFFECTIVE: 07/27/81

93-2 POLICY

(1) The FBI investigates to determine the financial position of individuals in cases referred by USAs when the Government has secured a judgment or a court has imposed a fine or order of restitution, if the amount of the debt exceeds \$2,500.00, provided the USA has previously taken all action at his/her disposal to collect the debt without success. Requests for investigation of cases in which the debt is smaller may be undertaken when it appears that a fraudulent transfer of assets or other special situation is known to be involved.

(2) It is the USA's responsibility to negotiate settlements with debtors. The FBI does not collect debts and, therefore, should not participate in any discussion meetings with or on behalf of the USA conducted for collection of debt or settlement of the debt from which an appearance of participation could be drawn.

(3) USAs should be asked to obtain or request an updated submission from the debtor a "Personal Financial Statement" form #OBD500. Agents should not in any way participate in aiding the debtor in the preparation of the form.

(4) As a final activity, prior to closing of investigation, the USA should be asked to notify the Case Agent or his/her supervisor of the collection of the debt, should collection occur. The investigative file is to reflect this contact.

(5) Cases should be closed upon completion of investigation without regard for the collection of all or part of the debt.

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(6) IF after a case is closed the USA's Office does notify the Case Agent or supervisor of collection, a memorandum to the closed file reflecting the contact should be made and Form FD-515 entered into the Integrated Statistical Reporting and Analysis Application (ISRAA).

(7) No attempt should be made by any field office to survey collections made by the USA's Office, as had been the policy in the past.

(8) The FBI does not investigate the financial position of any individual indebted to the Government by virtue of action of the Internal Revenue Service.

(9) Any unusual developments or novel techniques that arise in cases under investigation should be brought to the attention of FBIHQ.

EFFECTIVE: 11/12/93

93-3

INVESTIGATIVE PROCEDURE

(1) Review records of USA and Clerk of the U.S. District Court to ascertain the amount, date, and manner in which the obligation arose, as well as to determine action taken by USA to collect obligation prior to referring case to FBI.

(2) Glean from the USA's file the identity, position, and location of all persons that may have knowledge of the debtor's financial position.

(3) Photocopy all "Personal Financial Statements" contained in the USA's files.

(4) Conduct interviews of the employees of the Federal agency from whose action the delinquent debt occurred. Obtain all background information concerning the debtor, persons that may have knowledge of the debtor's financial position, and opinions of those interviewed as to the debtor's assets and liabilities. All financial statements, credit bureau reports, and [REDACTED] contained in their files should be photocopied. b7D

(5) If necessary and desirable, interview the debtor

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concerning his/her financial status.

(6) Attempt to obtain from the debtor executed releases that would permit examination of bank records, credit bureau files, credit card issuing companies, brokerage firms, etc., maintained in the debtor's name or under his/her control.

(7) To the extent possible, verify through interview and record reviews all of the data contained on the personal financial statement, credit bureau reports, and/or [REDACTED] b7D

(8) Verify the ownership of any real or personal property in which the debtor is believed to have a financial interest, lives or, if applicable, works. Be alert to the possibility of transfer of assets from the debtor to spouse, relatives, or nominee for the purpose of defeating the collection of debt to the Government.

(9) Review public source documents contained in the County Registry of Deeds, County Prothonotary, County Tax Collector, Clerk of Common Court, Registry of Motor Vehicles, in the debtor's name, to locate assets, liens or judgments.

(10) In report format submit the results of investigation to the USA and close case.

EFFECTIVE: 07/27/81

93-4 PRIVACY ACT, TITLE 5, USC, SECTION 552a - RESTRICTIONS

(1) When interviewing anyone in the above classification, in order to solicit information about himself/herself or his/her own activities, the interviewing Agent must follow the procedures described in MIOG, Part I, Section 190-5, (2) and (3).

(2) When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information) the interviewing Agent must follow the procedure relating to promises of confidentiality as described in MIOG, Part I, Section 190-7.

EFFECTIVE: 07/27/81

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93-5 THE RIGHT TO FINANCIAL PRIVACY ACT, TITLE 12, USC, SECTION
3401- RESTRICTIONS

The RFPA prohibits access to financial records maintained by financial institutions (banks, etc.) in AFA matters unless:

(1) the debtor has authorized disclosures by the financial institution to the Government under the provisions of Section 3404 of the Act; or

(2) the Government has sought access under Section 3408 and complied with all its provisions including the provision permitting the debtor to challenge the Government's request; or

(3) the Government under Section 3413(e) seeks access to the records under the Discovery provisions of the Federal Rules of Civil Procedure. (In order for this provision to apply the USA would have to have instituted a civil proceeding apart from that which gave rise to the debt.)

EFFECTIVE: 07/27/81

93-6 CONSUMER CREDIT PROTECTION ACT, TITLE 15, USC, SECTION
1601 - RESTRICTIONS

The CCPA prohibits access to credit records maintained by credit reporting agencies (credit bureaus, etc.) in AFA matters unless:

(1) the debtor has authorized disclosure by the credit reporting institution to the Government under provisions of Section 1681(b) 3(a) of the Act, or

(2) the Government under Section 1681(b)(1) seeking access to the records has obtained a court order. (Federal Grand Jury subpoenas do not apply. In order to obtain a court order the USA would have to have instituted a civil proceeding apart from that which gave rise to the debt.)

EFFECTIVE: 07/27/81

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| 93-7 CHARACTER - ASCERTAINING FINANCIAL ABILITY |

EFFECTIVE: 07/27/81

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SECTION 94. RESEARCH MATTERS AND GENERAL CORRESPONDENCE

94-1 RESEARCH MATTERS AND GENERAL CORRESPONDENCE

This classification deals with all general correspondence of the FBI with private individuals which does not involve any substantive violation. Most of this type of correspondence concerns general inquiries made by the public relative to the FBI's operations, such as general law enforcement conditions, fingerprinting, FBI Laboratory functions, and information concerning the training of Special Agents and support personnel. This type of general correspondence is also frequently received at FBIHQ from students requesting FBI publications to assist them in different types of school projects. Some letters in this category are sent by private individuals to the Director of the FBI requesting his photograph or commenting on some speech he has given.

This classification also pertains to correspondence received by field offices and at FBIHQ concerning research matters such as law enforcement technology and other matters of a general research nature.

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SECTION 95. LABORATORY|INVESTIGATIVE SERVICES (LIS)|

| 95-1 | LABORATORY INVESTIGATIVE SERVICES|POLICY

| (1) | This classification is normally assigned by FBIHQ to non-Bureau cases where a duly constituted state, county, or municipal law enforcement agency in a criminal matter or another Federal agency in a criminal or civil matter has requested an examination of evidence by the FBI Laboratory|Division.|

| (2) | The following categories of the 95 classification reflect the general crime classifications of the Uniform Crime Report Incident Based System. (See also MAOP, Part II, 3-1.1 and 3-1.2.)

- 95A - LIS - Crimes Against Persons
- 95B - LIS - Crimes Against Property
- 95C - LIS - Crimes Against Society
- 95D - LIS - Civil Cases|

EFFECTIVE: 06/03/94

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SECTION 97. REGISTRATION ACT

97-1 REGISTRATION ACT

Information concerning the 97 classification is set forth
in a separate FBI manual, the NATIONAL FOREIGN INTELLIGENCE PROGRAM
MANUAL (NFIPM).

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SECTION 98. SABOTAGE

98-1 STATUTES

Title 18, USC, Sections 2151 - 2156

Title 50, USC, Section 797

EFFECTIVE: 01/31/78

98-1.1 Section 2151 - Definitions

"The words 'war material' include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all articles, parts or ingredients, intended for, adapted to, or suitable for the use of the United States or any associate nation, in connection with the conduct of war or defense activities.

"The words 'war premises' include all buildings, grounds, mines, or other places wherein such war material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States, or any associate nation.

"The words 'war utilities' include all railroads, railways, electric lines, roads of whatever description, any railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances, thereof, or any other means of transportation whatsoever, whereon or whereby such war material or any troops of the United States, or of any associate nation, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which air, water or gas is being furnished, or may be furnished, to any war premises or to the

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Armed Forces of the United States, or any associate nation, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures, and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply air, water, light, heat, power, or facilities of communication to any war premises or to the Armed Forces of the United States, or any associate nation.

"The words 'associate nation' mean any nation at war with any nation with which the United States is at war.

"The words 'national-defense material' include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all other articles of whatever description and any part or ingredient thereof, intended for, adapted to, or suitable for the use of the United States in connection with the national defense or for use in or in connection with the producing, manufacturing, repairing, storing, mining, extracting, distributing, loading, unloading, or transporting of any of the materials or other articles hereinbefore mentioned or any part or ingredient thereof.

"The words 'national-defense premises' include all buildings, grounds, mines, or other places wherein such national-defense material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States.

"The words 'national-defense utilities' include all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances thereof, or any other means of transportation whatsoever, whereon or whereby such national-defense material, or any troops of the United States, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which air, water or gas may be furnished to any national-defense premises or to the Armed Forces of the United States, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance

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and operation thereof used to supply air, water, light, heat, power or facilities of communication to any national-defense premises or to the Armed Forces of the United States."

EFFECTIVE: 01/31/78

98-1.2 Section 2152 - Fortifications, Harbor Defenses, or
Defensive Sea Areas

"Whoever willfully trespasses upon, injures, or destroys any of the works or property or material of any submarine mine or torpedo or fortification or harbor-defense system owned or constructed or in process of construction by the United States; or

"Whoever willfully interferes with the operation or use of any of the above or

"Whoever knowingly, willfully, or wantonly violates any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which the President, for purposes of national defense, may from time to time establish by executive order---

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

98-1.3 Section 2153 - Destruction of War Material, War Premises,
or War Utilities

"(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any war material, war premises, or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

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"(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section."

National emergency was proclaimed by President, December 16, 1950

EFFECTIVE: 01/31/78

98-1.4 Section 2154 - Production of Defective War Material, War Premises, or War Utilities

"(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the carrying on the war or defense activities, willfully makes, constructs, or causes to be made or constructed in a defective manner, or attempts to make, construct, or cause to be made or constructed in a defective manner any war material, war premises receptacle used or employed in making, producing, manufacturing, or repairing any such war material, war premises or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

"(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section."

National emergency was proclaimed by President, December 16, 1950.

EFFECTIVE: 01/31/78

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98-1.5 Section 2155 - Destruction of National-Defense Materials,
National-Defense Premises, or National-Defense Utilities

"(a) Whoever, with intent to injure, interfere with or obstruct the national defense of the United States, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any national-defense material, national-defense premises, or national-defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section."

EFFECTIVE: 01/31/78

98-1.6 Section 2156 - Production of Defective National-Defense
Material, National-Defense Premises, or National-Defense
Utilities

"(a) Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully makes, constructs, or attempts to make or construct in a defective manner, any national-defense material, national-defense premises or national-defense utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such national-defense material, national-defense premises or national-defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section."

EFFECTIVE: 01/31/78

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98-1.7 Peacetime Statutes

Sections 2155 and 2156 are applicable in peacetime, as well as during a proclaimed national emergency or war.

EFFECTIVE: 01/31/78

98-1.8 Title 50, USC, Section 797 (Public Law 831, Section 21)

"(a) Whoever willfully shall violate any such regulation or order as, pursuant to lawful authority, shall be or has been promulgated or approved by the Secretary of Defense, or by any military commander designated by the Secretary of Defense, or by the Director of the National Advisory Committee for Aeronautics, for the protection or security of military or naval aircraft, airports, airport facilities, vessels, harbors, ports, piers, waterfront facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places subject to the jurisdiction, administration, or in the custody of the Department of Defense, any Department or agency of which said Department consists, or any officer or employee of said Department or agency, or by the National Advisory Committee for Aeronautics or any officer or employee thereof, relating to fire hazards, fire protection, lighting, machinery, guard service, disrepair, disuse or other unsatisfactory conditions thereon, or the ingress thereto or egress or removal of persons therefrom, or otherwise providing for safeguarding the same against destruction, loss or injury by accident or by enemy action, sabotage or other subversive actions, shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not to exceed \$5,000 or to imprisonment for not more than one year, or both.

"(b) Every such regulation or order shall be posted in conspicuous and appropriate places."

National Advisory Committee for Aeronautics ceased to exist September 30, 1958, but Section 797 was not changed.

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98-2 VENUE

- (1) In judicial district where illegal act committed.
- (2) Venue in conspiracy violations in any judicial district where the conspiracy was entered into or overt act occurs.

EFFECTIVE: 01/31/78

98-3 POLICY

EFFECTIVE: 01/31/78

98-3.1 Cases to be Investigated

- (1) Specific complaint with prima facie evidence that act of sabotage has been committed.
- (2) Information that actual or potential saboteurs are at large in the U. S.
- (3) Specific request from one of the military services for FBI investigation of a definite allegation of sabotage even though the case is within the investigative jurisdiction of Air Force, Army, or Navy under the Delimitations Agreement. The intelligence agency with investigative jurisdiction under the Delimitations Agreement must be agreeable to the FBI conducting the investigation and the request must be made promptly after the incident occurs and without prior investigation by another agency.
- (4) If inquiry through local officials or other informed sources reveals cause of incident and eliminates possibility of sabotage, no investigation is necessary. Keep in mind in this connection that a saboteur may be expected to attempt to disguise his work as an accident where feasible.
- (5) Instances of willful damage to or destruction of aircraft in interstate, overseas, or foreign air commerce are investigated under destruction of aircraft or motor vehicles statutes, but bear in mind sabotage violation could be involved.

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b2
b7E
[REDACTED]

(10) TURK: Subclassification used in recording time spent on these matters is 100C.

(11) Character: Infrastructure Vulnerability/Key Asset Protection Subprogram

EFFECTIVE: 12/10/91

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EFFECTIVE: 01/31/78

98-3.2 Alleged Plots of Sabotage

(1) Information is frequently received indicating an act of sabotage will be committed. It is often impossible to check the source or accuracy of such information. Take the following action immediately:

(a) Advise FBIHQ by teletype.

(b) Advise local representatives of Air Force, Army, and Navy intelligence agencies; local police; and officials of plant, facility, or utility involved.

(c) Conduct any logical investigation to ascertain basis for report.

(2) In disseminating information regarding an alleged plot of sabotage, the circumstances surrounding the receipt of the report should be outlined and the facts allowed to speak for themselves. Do not attempt to evaluate the information for other agencies and specifically advise them no evaluation has been made.

(3) Protection of lives and property in connection with an alleged plot of sabotage is responsibility of company or military establishment involved and local authorities. Decision regarding action to be taken or searching for alleged bombs will not be made by FBI. Agents are not to participate in searches for suspected bombs or assume responsibility for handling bomb devices.

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b2
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[REDACTED]

(6) Related Programs:

[REDACTED]

refer
FEMA

[REDACTED]

refer
DOD

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[REDACTED]

[REDACTED]

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98-3.3 Reporting Acts of Sabotage or Industrial Catastrophes

(1) Advise FBIHQ by telephone, teletype, or airtel of:

(a) Any specific complaint of sabotage or any allegation regarding which investigation conducted.

(b) Catastrophes of national interest.

(2) Also advise local representatives of interested intelligence agencies.

(3) Keep FBIHQ advised of pertinent developments.

(4) Information to furnish FBIHQ, if applicable:

(a) Name and location of plant, facility, or utility involved.

(b) Date and time of occurrence.

(c) Available details.

(d) Government contracts involved.

(e) Identity of agency with security responsibility and any interested agencies.

(f) Estimated damage or production loss.

(g) Any hazardous conditions or carelessness involved.

(h) Salvage or repair work under way.

(i) Any information indicating the act resulted from labor union activity, labor dispute, or strike - including identity of union; extent and duration of dispute or strike; names of union representatives and any subversive tendencies; any evidence of subversive influence; and names of, identifying data regarding, and information from office files regarding any logical suspects.

(j) Statement as to whether investigation being conducted. If no investigation being conducted, facts must be complete to justify this course of action.

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(k) If no report being submitted, specific statement to that effect.

(5) When airtel is used to advise FBIHQ of a reported act of sabotage, it must be accompanied by a letterhead memorandum, suitable for dissemination, containing all pertinent information relative to the alleged act of sabotage.

(6) If damage reported as sabotage is definitely attributable to labor union activity, labor dispute, or strike, conduct discreet inquiry if necessary to round out facts, advise FBIHQ and await FBIHQ instructions.

EFFECTIVE: 01/31/78

98-3.4 Slowdown of Production

(1) Slowdown occurs when employees intentionally reduce rate of production. This might be sabotage during period of national emergency as a deliberate plan by subversive forces.

(2) If allegation of sabotage through slowdown received, make discreet inquiry to develop facts but conduct no investigation.

(3) Advise FBIHQ of complaint. Teletype normally not necessary.

(4) Submit closing report under character of sabotage.
Include:

- (a) Identity of company.
- (b) Contracts or production involved.
- (c) Extent and cause of slowdown.
- (d) Effect on production.
- (e) Details of union activity.
- (f) Any indication of subversive activity.

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EFFECTIVE: 01/31/78

98-3.5 Biological Warfare

(1) Sections 2153 and 2155 include the words "contaminates or infects." This specifically covers sabotage by bacteriological, chemical, or radiological means.

(2) Such sabotage could be used against personnel in defense industries, military personnel and establishments, foodstuffs and other material to be used for national defense or the armed forces.

(3) Such sabotage could be accomplished by the introduction of bacteria, chemical agents, or radiological agents in ventilating systems, water supplies, food supplies, livestock, and food or forage crops.

(4) Advise FBIHQ immediately of any allegation concerning bacteriological, chemical, or radiological sabotage.

(5) As preliminary investigative procedure, determine from appropriate authorities, such as plant physicians, public health services, or agriculture departments, whether cause of any epidemic or unusual outbreak of disease has been determined.

(6) Title 50, USC, Sections 851-857, requires the registration of any person who has knowledge of or has received instruction or assignment in espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or a foreign political party. In investigating any reported act of biological, chemical, or radiological sabotage, determine if there has been a violation of this statute in addition to a violation of the sabotage statutes.

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98-3.6 Presentation of Cases to Department

Sabotage cases are not to be discussed with the U.S. Attorney. All questions of law and jurisdiction and requests for prosecutive opinions are to be submitted to FBIHQ for presentation to the Department.

EFFECTIVE: 01/31/78

98-4 INVESTIGATIVE PROCEDURE

EFFECTIVE: 01/31/78

98-4.1 General

(1) Procedure will depend on circumstances of particular case. All cases must be approached thoughtfully and aggressively. Investigations must be logical and complete.

(2) The investigation of an actual instance of sabotage is not complete until the cause is established and the identity of the subject determined. In a case of actual planned sabotage with intent to injure the national defense, consideration must be given to determining if there are any associates or accomplices through thorough investigation and surveillance prior to apprehension.

EFFECTIVE: 01/31/78

98-4.2 Arson

(1) One of the most effective potential means.

(2) Determine if fire protection devices tampered with to make fire more effective.

(3) Make arrangements with local authorities if necessary to protect scene.

(4) Give early consideration to establishing Bureau's jurisdiction prior to extensive investigative effort.

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(5) Important step in arson investigation is determining point in building at which fire originated. Interview any witnesses immediately and ascertain:

- (a) Where was witness when fire occurred.
 - (b) What attracted his attention.
 - (c) Exact point where fire burning when first observed.
 - (d) Exact time and general weather conditions.
 - (e) Technical information of value to Laboratory, such as: color, intensity, and progress of flame, whether fast or slow; color and volume of smoke; unusual odors; and, whether fire at more than one place.
 - (f) Were any explosions heard during fire.
 - (g) General observations, identity of other witnesses, or suspicious circumstances.
 - (h) Action taken by witness after discovering fire.
- (6) If fire occurred in manufacturing plant, witness should be questioned with regard to employment and activities and also questioned as to physical conditions in plant, manufacturing processes, type of raw material, and other information to determine if fire hazards were present which could have caused accidental or spontaneous combustion. Question witness concerning smoking habits of employees and experience concerning any previous fires.
- (7) Check records of local fire department; interview fire department official at scene for leads.
- (8) Make intensive search at point of origin to determine method of incendiarism. Pay particular attention to obtaining suspect devices or material to send to Laboratory.
- (9) Important that materials submitted to Laboratory be accurately described as to place, position, and location where found.
- (10) Consider value of obtaining photographs.

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(11) Search adjacent terrain for evidence, such as footprints, fingerprints, containers which may have contained accelerant used, etc.

(12) Investigate all suspects fully, not only with regard to evidence pointing to them, but to background indicating motive or intent.

(13) Set out below are some suggested sources for background investigations of suspects:

- (a) Associates
- (b) Credit and arrest records
- (c) Bank accounts
- (d) State income tax returns
- (e) Character and reputation, including discreet neighborhood inquiry
- (f) Records of Government agencies, INS, Armed Forces intelligence agencies, etc.
- (g) Employment
- (h) Fellow employees
- (i) Telephone toll calls
- (j) Telegrams
- (k) Surveillance, if warranted
- (l) Develop reliable informants in position to observe subject's activities.
- (m) Obtain complete physical description, including nationality and identification record.

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98-4.3 Sabotage by Explosives

(1) Investigation follows general outline as for arson cases.

(2) Careful examination of scene should be made for bomb fragments, dynamite fuse, detonators, blasting caps, and dynamite wrappers. This type of evidence should be submitted to FBI Laboratory for examination. Also look for footprints, fingerprints, and other types of evidence.

(3) Obtain complete photographs of scene.

(4) Assume no responsibility for handling suspected bombs.

(5) Investigate suspects along lines as indicated in previous section regarding arson.

EFFECTIVE: 01/31/78

98-4.4 Mechanical Sabotage

(1) These cases in majority and cover wide variety of destructive acts.

(2) Obtain all details from original complainant so that investigation may be intelligently planned and approached.

(3) Establish jurisdiction early in investigation.

(4) Where foreign material caused damage, obtain in order to trace to source. Submit material to Laboratory where proper.

(5) When damage occurs from foreign substance in lubricants or fuel, important to obtain sufficient quantity for FBI Laboratory examination. It is suggested one gallon be obtained if possible. Where large amount involved, the sludge which has settled to bottom should also be obtained and transmitted for laboratory examination. Samples of unused stock of oil or fuel involved should also be forwarded to Laboratory for comparison.

(6) Where tools, cutting implements, etc., involved, obtain damaged part for FBI Laboratory comparison with suspect tools

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when available.

(7) All suspects should be fully investigated. See previous section on arson.

(8) Where incident is of recurring type, give consideration to utilizing dyestuffs.

(9) Where board of inquiry held by another Government agency, records should be examined for possible leads. Bureau will consider granting authority for Agent to attend such hearings as interested spectator in appropriate cases.

EFFECTIVE: 01/31/78

98-4.5 Defective Manufacture of War or National Defense
Materials, Premises, or Utilities

(1) In addition to establishing the elements required by the statute, establish whether the defectively manufactured material will or did malfunction when put to its intended use and what damage will or did result from this malfunction. In order to establish this, the following suggestions are made:

(a) Determine the exact function of the defectively manufactured material.

(b) Determine the nature of the defect.

(c) Determine how this defect will affect the intended function of the material.

(2) The following investigative procedures have been found to be of assistance:

(a) Establish requirements or specifications for material by: government specifications; provisions of contract; established trade practices.

(b) Establish existence of any deviation from requirements by interview of government or plant officials; examination by FBI Laboratory.

(c) Specimens of defective material to be submitted

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to Laboratory whenever practicable.

(d) To establish possibility of injury or damage from use of such material when put to intended use, consider testimony from one of following sources: FBI Laboratory; Army, Navy, Air Force, or other Government expert; expert in private industry; officials of company involved; subjects of the investigation.

(e) Establish that subjects deliberately manufacturing defective materials by review of correspondence between manufacturer and purchaser; determine if manufacturing done surreptitiously; establish purchase and use of equipment not ordinarily used in this manufacturing process; establish whether contracting parties or Government agencies have objected to defective material or improper processes.

(f) Establish motive on the part of subjects as to foreign sympathies; desire to increase profit; desire to maintain production.

(g) If material manufactured for military, advise local representatives of Air Force, Army, and Navy intelligence agencies. Request their assistance in determining where material being used and in arranging for examination of material.

EFFECTIVE: 01/31/78

98-4.6 Aircraft Crashes

(1) The following instructions pertain to deliberately caused crashes of aircraft connected with the national defense which are not covered by the destruction of aircraft or motor vehicles statutes.

(2) Majority of crashes of such aircraft result from causes other than sabotage. To determine cause requires technical knowledge. Cases will normally be referred to FBI after cause of crash established.

(3) Make sure that all evidence which was developed to establish cause of crash has been properly identified and protected and that adequate expert testimony is available to establish cause of crash in any subsequent prosecution.

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(4) Under special circumstances, FBI may conduct investigation to establish cause of crash or take charge of investigation before exact cause of crash determined. Specific FBIHQ authority must be obtained in such instances. Some suggested investigation to establish cause of crash follows:

(a) Careful systematic examination of wreckage

(b) Photographs or sketches showing entire crash scene from various angles; close-up views from various angles; photographs of parts torn loose; photographs of instruments and levers in cockpit; photographs of marks made by airplane on ground.

(c) Persons to be interviewed for information are crew members or other survivors; persons who heard the plane before the crash; eyewitnesses; radio operators in contact with the plane; ground crew members and mechanics who serviced plane.

(d) Witnesses should be interviewed to obtain information as to the maneuvers of plane prior to crash; did plane appear to be out of control; did plane dive into ground or was landing attempted; were all engines operating; was plane on fire; did plane come apart in flight; did engines sound normal; was pilot lost or over unfamiliar territory; was plane on scheduled course; was landing attempt in accordance with normal procedure; was plane in radio contact; did plane's crew experience any mechanical difficulty; was log maintained while plane in flight; were any defects noted during previous flights; weather conditions at time of flight.

(e) In determining condition of airplane or manner in which functioning at time of crash, it is important to observe and carefully note exact position of all instruments in cockpit, such as fuel tank selectors, switches, throttles, etc. The condition of all control surfaces should also be carefully noted. From observation of all these items and discussion with persons experienced in handling aircraft, the condition of the plane and action being taken by pilot can often be determined.

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98-4.7 Reserve Officers' Training Corps (ROTC) Cases

(1) Department has determined that ROTC facilities constitute national-defense or war premises within meaning of Title 18, USC, Section 2151, and a deliberate attack by arson, bombing, fire bombing, or other means would possibly be a violation of Title 18, USC, Sections 2153 and 2155.

(2) Following additional procedures are to be followed in this particular type of case in order to provide information desired by Department for an opinion:

(a) For a complete investigation all pertinent individuals must be interviewed, including members of college or university community unless compelling reasons to the contrary exist.

(b) Develop existence of any plans for protest demonstrations or other acts designed to dramatize opposition to ROTC training.

(c) Submit any leaflets and/or other publicity afforded anti-ROTC protest demonstrations as enclosures to communications to FBIHQ.

(d) Identify specific property belonging to ROTC unit which was damaged or destroyed; obtain a complete inventory of all property maintained by ROTC unit.

(e) Obtain an estimate of actual cost in damage to ROTC facility and any ROTC property damaged or destroyed.

(f) Obtain details as to ownership of ROTC facility, including information as to funding and control of space of the facility utilized for ROTC training.

(g) Determine specific manner by which ROTC unit is identified on exterior of building.

(h) Determine whether ROTC training is compulsory or voluntary. If a subject is developed, determine whether he was denied, previously afforded, or is currently engaged in ROTC training.

(i) Through investigation determine whether subject made any pre-act or post-act statements which would aid in establishing his specific intent to commit sabotage.

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EFFECTIVE: 01/31/78

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SUBMISSION OF REPORTS

- (1) Initial report in two weeks after complaint received.
- (2) Subsequent reports to be submitted in accordance with Bureau reporting procedures.

EFFECTIVE: 01/31/78

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CHARACTER - SABOTAGE

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SECTION 100. DOMESTIC SECURITY/TERRORISM INVESTIGATIONS;
(100A);
SPECIAL EVENTS MANAGEMENT (100B);
INFRASTRUCTURE VULNERABILITY/KEY ASSET
PROTECTION SUBPROGRAM (100C)

100-1 GENERAL PROVISIONS

EFFECTIVE: 12/10/91

100-1.1 Investigative Jurisdiction

Investigations by the FBI under this section are based on the Attorney General's Guidelines on General Crimes, Racketeering Enterprise, and Domestic Security/Terrorism Investigations (AGG). These Guidelines, which became effective March 21, 1983, and were revised April 4, 1989, rescind all previous versions of those Attorney General Guidelines. The full text of these Guidelines is set forth in the Introduction, 1-3, of this manual. Some sections of the Guidelines, such as the "General Principles," the rules governing the "Investigative Techniques," and "Dissemination of Information" have general applicability to all investigations and should be consulted when appropriate. Section III, Part B, governing Domestic Security/Terrorism investigations, together with a commentary on key provisions relating to them, is set forth below in 100-1.2 and 100-1.2.1:

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100-1.2 Domestic Security/Terrorism Investigations | (See MIOG,
Introduction, 1-3, and Part I, 100-1.1.) |

"This section focuses on investigations of enterprises, other than those involved in international terrorism, whose goals are to achieve political or social change through activities that involve force or violence. Like racketeering enterprise investigations, it is concerned with the investigation of entire enterprises, rather than individual participants and specific criminal acts, and authorizes investigations to determine the structure and scope of the enterprise, as well as the relationship of the members." | (AGG III.B.) |

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100-1.2.1 Commentary | (See MIOG, Part I, 100-1.1.) |

(1) The Guidelines emphasize the need for criminal intelligence in Domestic Security/Terrorism investigations, and treat these investigations as an integral part of the FBI's law enforcement responsibilities.

(2) The rules governing Domestic Security/Terrorism investigations employ the "criminal enterprise" concept so successfully used in organized crime cases. This allows the FBI to cross organizational lines in Domestic Security/Terrorism investigations without regard to what a particular group or element of an organization might call itself. It should enable the Bureau to deal more effectively with groups who knowingly act in furtherance of the criminal objectives of the enterprise. Thus, persons who provide safehouses, money, weapons, or otherwise knowingly support the criminal activities of the terrorist enterprise can be investigated as part of the same criminal enterprise. It will no longer be necessary to open a separate investigation of such groups with a separate justification.

(3) The enterprise concept will also permit the FBI to focus its investigation upon violent factions of a larger group, without investigating the entire group. The new approach recognizes that terrorist groups today have a fluid membership and often lack organizational structure, yet function as a single enterprise directed toward a common goal.

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100-1.2.2 General Authority | (See MIOG, Introduction, 1-3.) |

"a. A domestic security/terrorism investigation may be initiated when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals, wholly or in part, through activities that involve force or violence and a violation of the criminal laws of the United States. The standard of 'reasonable indication' is identical to that governing the initiation of a general crimes investigation under Part II. In determining whether a full investigation should be conducted, the FBI shall consider all of the circumstances including: (1) the magnitude of the threatened harm, (2) the likelihood it will occur, (3) the immediacy of the threat, and (4) the danger to privacy and free expression posed by an investigation." | (AGG III.B.1.a) |

"b. Authority to conduct domestic security/terrorism investigations is separate from, and in addition to, general crimes investigative authority under Part II, racketeering enterprise investigations under Part III A, and international terrorism investigations under the Attorney General's Guidelines for Foreign Intelligence Collection and Foreign Counterintelligence Investigations. Information warranting initiation of an investigation under this section may be obtained through the course of a general crimes inquiry or investigation, a racketeering enterprise investigation, or an investigation of international terrorism. Conversely, a domestic security/terrorism investigation may yield information warranting a general crimes inquiry or investigation, a racketeering enterprise investigation, or an investigation of international terrorism." | (AGG III.B.1.b) |

"c. In the absence of any information indicating planned violence by a group or enterprise, mere speculation that force or violence might occur during the course of an otherwise peaceable demonstration is not sufficient grounds for initiation of an investigation under this section. For alternative authorities, see Part II relating to General Crimes Investigations and the Attorney General's Guidelines on 'Reporting on Civil Disorders and Demonstrations Involving a Federal Interest.' This does not preclude

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the collection of information about public demonstrations by enterprises that are under active investigation pursuant to paragraph B 1(a) above." (AGG III.B.1.c)

EFFECTIVE: 06/23/97

100-1.2.3 Commentary (See MIOG, Introduction, 1-3.)

(1) Domestic Security/Terrorism Investigations

(a) The enterprise approach authorizes a single level of investigation for Domestic Security/Terrorism investigations, i.e., a criminal intelligence investigation. This permits techniques, such as the development of new informants and the infiltration of organizations when an investigation is begun. Preliminary inquiries involving individual members of an organization or enterprise can be conducted under General Crimes authority as an "Act of Terrorism" (AOT) investigation (266 classification) when facts or circumstances fall short of the "reasonable indication" threshold, but allege some form of specific criminal activity. These preliminary inquiries should be reported under an Act of Terrorism caption and thereafter identify the specific predicate offense (refer to MIOG, Part I, Section 266). The AOT investigation may be used to determine whether leads indicating the specific criminal activity warrant a Domestic Security/Terrorism investigation. This approach draws a sharper distinction between inquiries related to specific criminal conduct and intelligence investigations focused on an entire enterprise.

(b) A Domestic Security/Terrorism investigation may be initiated when "facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals, wholly or in part, through activities that involve force or violence and a violation of the criminal laws of the United States." This parallels the standard now followed in Racketeering Enterprise Investigations, and should eliminate any perception that actual or imminent commission of a violent crime is a prerequisite to investigation. It is not necessary to show that a crime is about to be committed, or that persons are planning or preparing to engage in a specific crime. It is sufficient if the facts or circumstances indicate that the enterprise seeks to accomplish its political or social objectives through violence. The standard requires a valid factual predicate and law enforcement

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purpose, but it is substantially lower than the "probable cause" threshold required for arrest.

(c) The Attorney General Guidelines also make clear that there are circumstances in which advocacy of criminal activity may trigger an investigation. (See Part I. General Principles.) They recognize the limitations imposed by the First Amendment and by the Privacy Act of 1974. At the same time they take note of the fact that words can indicate an intent to take action and that the role of intelligence investigations is preventive as well as prosecutorial. The Guidelines call attention to the fact that advocacy should be viewed in the context in which it is made. Some radical statements may be recognized as harmless puffery or rhetoric, whereas others, in the context in which they are made, may be a clear warning of illegal activity to follow. In those latter circumstances, an investigation should be authorized.

(d) The Guidelines make it clear that statements which advocate criminal activity or indicate an apparent intent to engage in crime, particularly crimes of violence, are not immune from investigation. Advocacy of unpopular ideas or lawful political dissent alone is not an adequate basis for investigation, but statements which, taken in context, present a credible threat of crime should not be ignored. The mere fact that one "goes public" with statements indicating an intent to engage in crime or urging others to do so does not convey some special protection under the Constitution. Indeed, some statements such as those threatening the President or a foreign official are themselves crimes; others may constitute evidence of a crime or of an intent to commit a crime.

1. It is important to understand, however, that the advocacy provision in this section does not itself provide any special authority with respect to such matters. It must be implemented in accordance with the other substantive provisions of the Guidelines and only when the threshold standards for an investigation are satisfied. Advocacy of crime may result in the initiation of a full general crimes investigation (266 classification) when the facts or circumstances reasonably indicate that a federal crime has been, is being, or will be committed. It could also lead to the opening of a Domestic Security/Terrorism investigation when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise that seeks to accomplish political or social change through force or violence in violation of federal law.

2. In view of these requirements, it is unlikely that a full investigation would be initiated without some

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additional facts or circumstances beyond the statements themselves. As a practical matter, we are seldom confronted with words alone; there is often some additional information available about the persons involved or the circumstances in which the statement was made. That is implicit in the requirement that the statements advocating criminal activity must be viewed in context before further inquiry will be authorized. Furthermore, you should attempt to resolve simple "advocacy" statements in Domestic Security/Terrorism matters through Act of Terrorism (266 classification) preliminary inquiries whenever possible.

3. Nonetheless, the Guidelines do not foreclose the possibility of a full investigation based on advocacy alone, particularly where the statement suggests a serious and immediate prospect of harm. This should not be confused with the standards required by the courts for the imposition of a criminal penalty for the making of certain statements. The Guidelines do not deal with prosecution, but rather with investigation conducted prior to prosecution. Unless the statements themselves are crimes, the Bureau's primary interest here is in determining what those statements tell us about the intent of the individuals involved. It is often difficult to separate "rhetoric" from "intent" and to make an informed judgment about the likelihood of harm without inquiring into the context or circumstances in which the statements were made. It should be sufficient if, on the face of it, the statement qualifies for an AOT preliminary inquiry or full investigation, or a full Domestic Security/Terrorism investigation under the standards required by the Guidelines.

(2) Preliminary Inquiries

(a) All preliminary inquiries will be conducted pursuant to the General Crimes Guidelines. There is no separate provision for a preliminary inquiry in the Racketeering Enterprise or Domestic Security/Terrorism Sections of the Guidelines. You must rely on the authority in the General Crimes Preliminary Inquiries Section to follow up on information or allegations that do not warrant a Domestic Security/Terrorism investigation. (See Part II B of the AGG.) Therefore, preliminary inquiries regarding domestic terrorism matters may not be initiated in Domestic Security/Terrorism investigations (100 classification), but may be initiated in AOT investigations (266 classifications).

(b) Deleted

(c) Deleted

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(d) Deleted

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100-2 DOMESTIC SECURITY/TERRORISM INVESTIGATIONS

EFFECTIVE: 12/10/91

100-2.1 Purpose (See MIOG, Introduction, 1-3.)

"The immediate purpose of a domestic security/terrorism investigation is to obtain information concerning the nature and structure of the enterprise, as specifically delineated in paragraph (3) below, with a view to the longer range objectives of detection, prevention, and prosecution of the criminal activities of the enterprise." (AGG III.B.2) (Also see 100-2.2.)

EFFECTIVE: 06/23/97

100-2.2 Scope (See MIOG, Part I, 100-2.1.)

"a. A domestic security/terrorism investigation initiated under these guidelines may collect such information as:

"(i) the members of the enterprise and other persons likely to be knowingly acting in furtherance of its criminal objectives provided that the information concerns such persons' activities on behalf or in furtherance of the enterprise;

"(ii) the finances of the enterprise;

"(iii) the geographical dimensions of the enterprise; and

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"(iv) past and future activities and goals of the enterprise.

"b. In obtaining the foregoing information, any lawful investigative technique may be used in accordance with requirements of Part IV." (AGG III.B.3)

EFFECTIVE: 06/23/97

100-2.3 Authorization and Renewal. (See MIOG, Introduction, 1-3.)

"a. A domestic security/terrorism investigation may be authorized by the Director or designated Assistant Director upon a written recommendation setting forth the facts or circumstances reasonably indicating the existence of an enterprise, as described in this subsection. In such cases, the FBI shall notify the Terrorism and Violent Crimes Section, Criminal Division, Department of Justice, of the opening of the investigation. In all investigations the Attorney General may, as he deems necessary, request the FBI to provide a report on the status of the investigation." (AGG III.B.4.a)

"b. A domestic security/terrorism investigation may be initially authorized for a period of up to 180 days. An investigation may be continued upon renewed authorization for additional periods each not to exceed 180 days. Renewal authorization shall be obtained from the Director or designated Assistant Director." (AGG III.B.4.b)

"c. Investigations shall be reviewed by the Director or designated senior headquarters official on or before the expiration period for which the investigation and each renewal thereof is authorized." (AGG III.B.4.c)

"d. Each investigation should be reviewed at least annually to ensure that the threshold standard is satisfied and that continued allocation of investigative resources is warranted. In some cases, the enterprise may meet the threshold standard, but be temporarily inactive in the sense that it has not engaged in recent acts of violence, nor is there any immediate threat of harm--yet the composition, goals and prior history of the group suggests the need for continuing Federal interest. Under those circumstances, the

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investigation may be continued, but reasonable efforts should be made to limit the coverage to information which might indicate a change in the status or criminal objectives of the enterprise." (AGG III.B.4.d)

"e. An investigation which has been terminated may be reopened upon a showing of the same standard and pursuant to the same procedures, as required for initiation of an investigation." (AGG III.B.4.e)

"f. The FBI shall report the progress of a domestic security/terrorism investigation to the Terrorism and Violent Crimes Section not later than 180 days after the initiation thereof, and the results at the end of each year the investigation continues. The Terrorism and Violent Crimes Section shall review the results of each investigation at least annually." (AGG III.B.4.f)

EFFECTIVE: 06/23/97

100-2.3.1 Commentary

There has been a tendency in the past to close domestic security investigations and terminate informant coverage when the violent activity of the group has been dormant for a period of time. If the organization became active again, it was often a difficult and time-consuming process to redevelop informant coverage. The AGG (Part III.B.4.d) permits the FBI to monitor organizations that may be temporarily inactive, but whose prior record or stated objectives indicate a need for continuing federal interest, so long as the threshold standard for investigation is satisfied. Under those circumstances, the investigation may remain in a pending status, and informant coverage can be maintained to the extent necessary to determine whether there is any change in the criminal objectives of the enterprise. The ability to continue an investigation, despite temporary inactivity of acts of violence or lack of immediate threat, is often referred to as the "dormancy provision" of the AGG and is a significant advantage that Domestic Security/Terrorism (100) investigations afford over AOT (266) cases.

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100-3 RESULTS OF INVESTIGATION

EFFECTIVE: 12/10/91

100-3.1 Reporting

(1) The contents of communications which report the results of Domestic Security/Terrorism investigations should be limited to information about the criminal enterprise under investigation. Recommendations, opinions, and conclusions of the FBI should be included in the administrative portion of the communication, or in the case of letterhead memoranda (LHM), in the cover electronic communication. In preparing LHMs which are disseminated to the Terrorism and Violent Crimes Section, Department of Justice, and to other agencies on a need-to-know basis, emphasis should be placed on factual accuracy.

(2) In all communications submitted under a Domestic Security/Terrorism caption, a statement indicating the authorized period of investigation should be set forth. This statement should be placed after the case caption and after referencing previous communications. For example:

"XYZ ORGANIZATION;
DOMESTIC SECURITY/TERRORISM;
OO: NEW YORK";

"Reference New York teletype to Director, 5/1/86;

"Domestic Security/Terrorism investigation authorized
5/18/86 to expire 11/14/86."

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100-3.1.1 Deadlines (See MAOP, Part II, 10-9(23).)

(1) When a Domestic Security/Terrorism investigation is completed or nearing expiration, the results of the investigation are to be furnished to FBIHQ in an LHM with a cover electronic communication (EC) recommending an extension or closing of the matter. This report is due no later than 180 days after the initiation of the investigation. A second report is due at the end of the first year of investigation. These reports should be presented in a summary, narrative form, containing specific and articulable facts adequate to meet the "reasonable indication" standard of the Attorney General's Guidelines for renewal, or sufficient information which warrants the investigation being placed in a closed status. Any recommendations, opinions or conclusions of the FBI should be included in the cover EC, but not in the LHM. The cover EC should also include a paragraph which sets forth future investigative and prosecutive goals and a paragraph which sets forth the investigative strategy to be implemented in order to attain these goals. The investigative goals paragraph may include objectives which relate to the improvement of the intelligence base, use of technical or undercover techniques, or any other vulnerability which can be exploited. The investigative strategy paragraph(s) should describe how these goals and objectives will be reached during the next 180 days. The LHM and cover EC (hard copy) should be submitted to arrive at FBIHQ at least ten working days prior to the expiration of the current authorization period and should be organized as follows:

(a) Predication - This should include a paragraph(s) relating the circumstances which caused a full DS/T investigation of the captioned group or individuals to be initiated.

(b) Background Information on Group - In addition to a description of the group under investigation, this section should include, but not be limited to, the following:

1. Specific criminal acts the group has committed, or is advocating, to achieve its political or social goals.
2. Key leaders and members of the group.
3. Finances of the group.
4. Geographical dimensions of the group.
5. Planned activities and goals of the group.

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6. Association with other organizations/groups which are subjects of an FBI DS/T investigation.

(c) Activities during the last 180 days - This section should include a summary of investigative results of the office of origin and all auxiliary offices.

(d) Justification for Continuation of Investigation - This segment should set forth in succinct detail how the facts of this investigation conform with the Attorney General's Guidelines for DS/T investigations. It should contain a paragraph(s) which reasonably indicates that two or more persons are continuing to engage in an enterprise for the purpose of furthering political or social goals, wholly or in part, through activities which involve force or violence and a violation of the criminal laws of the United States.

(2) The due date of this report is calculated from the date the Domestic Security/Terrorism investigation was approved by FBIHQ. After the first year, the office of origin should continue to submit reports in ongoing Domestic Security/Terrorism investigations each 180 days. These reporting deadlines allow for compliance with the requirements of the Attorney General Guidelines and do not preclude, nor should they discourage, the reporting of results of investigation by teletype, EC, telephone, or other form of communication to FBIHQ and pertinent field offices during the course of the investigation. Significant data developed during the period between 180-day reports, which requires notification to FBIHQ or dissemination to other agencies, should be submitted by EC, LHM, teletype, or telephone, depending on the exigencies of the situation. Communications containing information of interest for other agencies should be prepared in a form suitable for dissemination. Significant information furnished on an interim basis should also be included in the next regularly scheduled report.

(3) Communications (hard copies) recommending an extension of Domestic Security/Terrorism investigations should be received at FBIHQ no later than ten working days prior to the expiration of such matters.

(4) Deleted

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100-3.1.2 Predications

In Domestic Security/Terrorism investigations, the basis for the investigation shall be set forth as the first paragraph in the details of the initial LHM. Formal predications are no longer required. A statement including pertinent portions of the Attorney General Guidelines is sufficient.

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100-3.1.3 Documentation of Information

All communications should be limited to documented information relevant to the scope of the investigation. No information should be reported concerning an individual's social or personal habits or other background data which is not relevant to an assessment of his/her activities or affiliation with the enterprise under investigation.

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100-3.1.4 Undisclosed Sources

(1) Where the identity of the source of information is not disclosed in a Domestic Security/Terrorism report, an assessment of the reliability of the source shall be provided.

(2) In all communications, the source of the information should be identified by symbol number or name in either the cover pages or administrative section of the communication.

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100-3.1.5 Characterizations

(1) A characterization of the group should be included as part of the initial LHM submitted. Characterizations should be outlined as the first paragraph of the LHM or as an appendix to the LHM.

(2) This instruction eliminates the previous reporting requirement of providing characterizations of subversive organizations. All characterizations should include a statement regarding the political or social goals which the group hopes to achieve through violence, its geographic area of operation, and a summary of the violence or criminal activity it either has been involved in or is advocating in the future. In instances where only advocacy of violence is present, a statement should also be included regarding the ability of group members to carry it out and the likelihood of the harm intended. (For further instructions on the preparation of characterizations, see Part II, 10-17.13, of the Manual of Administrative Operations and Procedures.)

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100-3.1.6 Character

The designation "Domestic Security/Terrorism" should be used in all cases, e.g., "(Name of Organization); Domestic Security/Terrorism." If a subsidiary or front group is involved, include the name or abbreviation of the parent organization, e.g., "(Name of Organization); Domestic Security/ Terrorism - (Name of Subsidiary Organization)."

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100-3.1.7 Copies - 180-Day Reports and LHMs

Five copies of 180-day reports in LHM form should be submitted to FBIHQ, unless instructed otherwise in specific cases. The office of origin should also provide information copies of these reports to involved field offices.

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100-3.1.8 Informant Coverage

Cover electronic communications should include a brief summary of informant coverage available with respect to a group or enterprise, identifying informants who report on the group's activities by symbol number, and showing specifically which informants are members of the group.

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100-3.1.9 Office of Origin

The field office wherein the criminal enterprise is headquartered, or whose Domestic Security/Terrorism activities largely occur in, or impact upon, should be designated as origin. In unusual circumstances where there is doubt which office should be origin, a request should be made to FBIHQ to designate an office of origin. In cases where the office of origin receives information that a criminal enterprise has changed its area of operation to the territory of another division, and justification to investigate exists based on the criminal enterprise's current activities, the office of origin should request verification of this information to be completed within 30 days. If the new area of operation is confirmed, the office of origin will be transferred. The level of investigation being conducted by the previous office of origin should be continued by the new office of origin unless facts, in addition to the criminal enterprise's relocation, indicate that another form of investigation is more appropriate. Reporting deadlines applicable to the former office of origin are to be followed by the new office of origin.

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100-3.2 Additional Reporting Requirements

The following reporting requirements are separate from, and in addition to, the 180-day reports requesting renewal authorization or recommending the closing of a Domestic Security/Terrorism investigation outlined above:

(1) BASIS FOR ADDITIONAL REPORTING - Past investigation of domestic terrorist organizations has demonstrated that in order to achieve success in these cases the primary thrust must be prosecutive; however, experience has also shown that a successful prosecution against a terrorist enterprise does not necessarily mean its demise.

(a) During the course of a DS/T criminal intelligence investigation, specific articulable criminal violations may be identified which would reasonably indicate enforcement activity or court proceedings (e.g., arrest, discovery hearings, etc.) will occur. At that time, a general criminal investigation (266 case) should be opened to focus upon the specific criminal activity. The criminal intelligence investigation (100 case) would continue to focus on the entire enterprise, as the scope of the AOT case may be limited to a relatively small portion of the total activity of that enterprise.

(b) While it may be appropriate for all investigative results generated from an AOT (266) case to be placed in the corresponding 100 file, the converse is not true. Only those details in the 100 case which specifically pertain to the subjects of the AOT case should be placed in the 266 file.

(2) ADDITIONAL REPORTING PROCEDURES - In order to mandate the essential analysis of these groups and to provide for a more adequate and efficient intelligence base in Domestic Security/Terrorism investigations, the following reporting procedures shall be followed.

(a) In addition to the submission of a 180-day LHM requesting renewal authorization or closing of a Domestic Security/Terrorism investigation, the office of origin will also submit separate investigative inserts on individual members of the enterprise, and other persons likely to be knowingly acting in furtherance of its criminal objectives, using the following format:

1. Name and known aliases of subject;
2. Biographical data to include: date of

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birth, place of birth, height, weight, eye and hair color, social security account number, distinguishing marks or characteristics, build, past and current addresses, past and current phone numbers, educational background, employment (past and present), and criminal record to include dates, offense, location, disposition, and FBI, state and local agency identifying numbers. Also include Henry and NCIC fingerprint classifications.

3. Short narrative explaining the role or position of the subject in the group or enterprise, including any known or suspected criminal activity in which the subject is or has been involved.

4. Summary of subject's travel, domestic and foreign, including dates and points of travel. Also, detail nature of contacts that subject has had with other groups or enterprises under investigation.

5. Statement of subject's source of finances, if known.

6. Glossy 3 by 5 inch photograph of member, if available. If not available, efforts should be made to obtain one.

(b) In cases where a subject(s) resides within an auxiliary office territory, the auxiliary office will prepare inserts as above, and forward them to the office of origin 30 days prior to the expiration of the current authorization. This will be incorporated into the office of origin's submission to FBIHQ.

(c) Following the initial submission of these inserts, follow-up inserts should contain only information which has changed since the last reporting. Photographs of subjects should be updated at least annually.

(d) To facilitate the preparation of these inserts, subfiles for each subject should be created which will provide appropriate documentation and retrieval capability.

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100-4 PUBLICATIONS OF DOMESTIC SECURITY/TERRORISM ORGANIZATIONS;
COLLECTION OF PUBLICLY AVAILABLE INFORMATION

(1) The Attorney General Guidelines on General Crimes, Racketeering Enterprise, and Domestic Security/Terrorism Investigations allow the FBI to collect publicly available information subject to the constraints of the federal Privacy Act of 1974. This Act prohibits the collection, maintenance and dissemination of any record describing how an individual exercises First Amendment Rights, except when authorized by statute, or when pertinent to and within the scope of an authorized law enforcement activity.

(2) The FBI, in this regard, is authorized to collect general information which is available to every citizen even though there is no active investigation. Examples of information we may collect is that which is obtainable through the printed news media data banks, e.g., The NEW YORK TIMES Data Bank, public libraries, newspapers, and magazines. This type of material is collected as library material, and should not be indexed as to particular individuals or placed in FBI files.

(3) Publications issued by a group which is the subject of a Domestic Security/Terrorism investigation can be collected. This type of material can be indexed as to particular individuals and can be made a part of the investigative file.

(4) All information received or made available to the FBI during the course of an investigation should be evaluated for its pertinence to the investigation. This is particularly true when the information concerns the exercise of an individual's or group's First Amendment rights. In such cases, the information concerning the exercise of First Amendment rights should be made a matter of record only if it is pertinent to and within the scope of an authorized law enforcement activity. (See MIOG, Introduction, 1-4; Part I, 190-5.1; MAOP, Part II, 9-4.4.2(2).)

(5) When public-source printed material concerning the exercise of First Amendment rights is obtained and a decision made to retain such material, a notation must be placed on the material describing the reason(s) it was collected and retained. The notation must clearly indicate the specific investigative interest(s) which led to the decision to retain the item.

(6) Certain printed public source material may contain a characterization of a group, individual or activity. When such information is disseminated to FBIHQ, FBI field offices or outside the

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FBI the transmitting communication should state that the characterization has not been made by the FBI, but by a third party. However, if the characterization comports in whole or in part with the results of independent FBI investigation, the transmitting communication may so state.

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INFRASTRUCTURE VULNERABILITY/KEY ASSET PROTECTION
SUBPROGRAM; COUNTERTERRORISM PROGRAM

(1) Background - With the increase of terrorism in the latter half of this century, there has been a developing awareness of the possibility of a terrorist attack against key assets of this nation's infrastructure. This vulnerability was underscored in 1985, by the Vice President's Task Force on Terrorism which concluded that key industrial and governmental assets within this nation's infrastructure could pose attractive terrorist targets with potentially disastrous consequences. As an executive level participant to the task force on terrorism and lead agency for counterterrorism within the United States, the FBI developed and implemented an Infrastructure Vulnerability/Key Asset Protection Subprogram to facilitate protection against this threat.

On November 18, 1988, President Reagan signed Executive Order (EO) 12656, "Assignment of Emergency Preparedness Responsibilities." This EO assigned to 26 Federal agencies "lead" and "support" responsibilities for National Security Emergency Preparedness (NSEP). The Department of Justice (DOJ), was included in the order. Essentially, the EO addresses the need to protect this nation's critical facilities and services in anticipation of a national emergency.

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(3) Subprogram Objective: The objective of the FBI's Infrastructure Vulnerability/Key Asset Protection Subprogram is to identify key assets, develop liaison, and assist in contingency planning where necessary and, by doing so, to facilitate the protection of the U.S. infrastructure.

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